

**THE HIGH COURT OF JUDICATURE
AT MADRAS 1974 - 75**

— 5482
370.26
TAM—

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(SPECIAL ORIGINAL JURISDICTION).

Wednesday, the seventeenth day of December.

One thousand nine hundred and seventy five.

Present.

The Honourable Mr. K. Veeraswami, Chief
Justice

and

The Honourable Mr. Justice Natarajan

Writ Pctitions Nos. 4478 of 1974 and 294, 1364,
1365, 1750, 226, 510, 603, 683, 934, 953, 1062, 1081,
1209, 1311, 1361, 1738, 1908, 1989, 2119, 2670 to 2680,
2780, 2944, 3029, 3135, 3221, 3351, 3513, 3756, 5072,
2075 and 768 to 770 of 1975. 897, 1076, 1640 and 1641/75.

W. P. No. 4478 of 1974:

1. The Society of the Brothers of
the Sacred Heart of Jesus,
Palayankottai, Tirunelveli District,
by Rev. Br. A. Thomas, SHJ.,
General Manager.
2. Rev. Br. A. Thomas, SHJ.,
General Manager, The Society
Heart of Jesus, Palayankottai,
Tirunelveli District

PETITIONERS

Vs.

1. The State of Tamil Nadu,
represented by the Secretary to
Government, Education Department,
Fort Saint George, Madras-9.
2. The State of Tamil Nadu, represented
by the Secretary to Government, Law
Department, Fort St. George,
Madras-9.
3. The Joint Director of School
Education (Secondary), Old
College Road, Madras-6.

RESPONDENTS

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith, the High Court will be pleased to issue a Writ of Mandamus directing the Respondents herein and their Subordinates to forbear from giving effect to the provisions of Sections 8(1) (a), (b) and (c), 11, 12, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 31, 39, 40, 42, 43, 44, 45 and 46 of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974, with reference to the educational institutions of the petitioners in the State of Tamil Nadu.

Writ Petition No.294 of 1975.

The Tirunelveli Diocese of the Church of South India represented by Rev. S.T. Paul Gnaniah, the Moderator's Commissary

} PETITIONER.

Vs.

1. The State of Tamil Nadu by the Secretary of Education Department, Fort Saint George, Madras-9
 2. The State of Tamil Nadu by the Secretary, Law Department, Fort Saint George, Madras-9
 3. The Joint Director of School Education (Secondary), Nungambakkam, Madras-34.
- } RESPONDENTS

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith, the High Court will be pleased to issue a Writ of Mandamus to restrain the Government of Tamil Nadu and the Respondents from applying to or enforcing against the petitioners in respect of the private schools under the management of the Tirunelveli Diocese all or any of the following provisions of the Tamil Nadu recognised private schools Regulations

Act, 1973 namely, sec. 8(1) and 8(2) requiring the prior approval of the competent authority for any change in the constitution of the minority educational agency and sections 11 to 14 relating to the recognition and withdrawal of recognition of private schools and payment of grant and sections 15 to 18 relating to formation of the schools Committee and division of the powers between the school committee and the Educational Agency whereby the present administrative set up is being displaced by statutory set up; and sec. 21 authorising the school committee to define the standards of conduct of teachers of the School Committee while the Committee itself is objectionable and Sections 22 to 25 providing for dismissal, removal and other disciplinary action against the employees of the School subject to approval by the competent Authorities and Second appeal to Tribunals and Section 20 requiring the teachers retrenched by any of the schools to be appointed in minority schools, and Sec. 28 which has made even the pending proceedings or decrees of competent courts to be subject to chapter V and Sections 31 (1) (a) restricting the alienation of the property of private schools and Sec.32 requiring prior approval for receiving any amount from anyone for the schools and sec. 33 requiring the monies of the schools to be deposited in certain particular banks and sections 31 to 44 providing for appeal and sections 45 providing for revision by the Government in regard to decisions relating to the aforementioned matters not applicable to minority schools and Sec. 56 (2) (f) enabling the Government to frame rules regarding admission of pupils for the advancement of backward classes and scheduled castes into minority schools and Sec. 56 (2)(g) enabling Government to prescribe the purpose for which the premises of the minority schools could be used and sec.56(2)(1)

enabling Government to prescribe conditions for receiving donations or contributions by the minority schools from the public and Rules 9(2) (c)(i) and 9(2) (c) (ii) and 9(2) (f) and 9(2)^(j) relating to creation of endowment: depositing of working capital and instructions relating to admission in the Private Schools and the purpose for which the premises of the minority schools could be used, Rule 10 authorising withdrawal of recognition by competent authorities for not complying with the statutory provisions including the impugned provisions and proviso to Rule 11(1) providing for consequential suspension of payment of grant: Rules 12, 13, 14 relating to the school Committees and during the period of withdrawal of recognition: Rule 15(2) (i) requiring the school agency to enter into an agreement in the prescribed form and also Rules 15(3) and 15(4) relating to appointment of teachers and basis of promotion and Rule 16(3) which relates to the School Committees and 17, 17(1) dealing with the prior approval of the competent authority Rule 17(3) making the grant payable to the private schools dependent upon the correctness of the suspension of teachers as may be determined by the competent authority and non-payment of grant to the substitute teachers and Rule 18 relating to punishment of the employees and appeal by them to competent authorities and Rule 22 imposing restriction on transfer of properties of the denominations and requiring the permission of the competent authority for the same and Rule 24 dealing with utilisation of funds and property of schools under the petitioner's management.

Writ Petition No.1364 of 1975

K. Parthasarathi,
Trustee and Correspondent,
Lady M.Ct. Muthiah Chettiar
Girls' High School,-
Purasawalkam, Madras-84

PETITIONERS

Vs.

1. The State of Tamil Nadu represented by the Secretary to Government, Education Department, Fort Saint George, Madras-9.
2. The Inspectress of Girls' Schools, Madras Circle, Madras.

RESPONDENTS

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith, the High Court will be pleased to issue a Writ of Mandamus directing the respondents herein to forbear from enforcing or attempting to enforce any of the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 (Act 29 of 1974) and Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974 in so far as the petitioner's Schools concerned in the State of Tamil Nadu.

W.P.No.1365 of 1975.

K. Parthasarathi,
Trustee and Correspondent,
Sir, M.Ct. Muthiah Chettiar
High School, Purasawalkam,
Madras-84

PETITIONER

Vs.

1. The State of Tamil Nadu represented by the Secretary to Government, Education Department, Fort Saint George, Madras-9.
2. The District Educational Officer, Madras North, Madras-7.

RESPONDENTS

enabling Government to prescribe conditions for receiving donations or contributions by the minority schools from the public and Rules 9(2) (c)(i) and 9(2) (c) (ii) and 9(2) (f) and 9(2)^(j) relating to creation of endowment:

depositing of working capital and instructions relating to admission in the Private Schools and the purpose for which the premises of the minority schools could be used, Rule 10 authorising withdrawal of recognition by competent authorities for not complying with the statutory provisions including the impugned provisions and proviso to Rule 11(1) providing for consequential suspension of payment of grant:

Rules 12, 13, 14 relating to the school Committees and during the period of withdrawal of recognition: Rule 15(2) (i) requiring the school agency to enter into an agreement in the prescribed form and also Rules 15(3) and 15(4) relating to appointment of teachers and basis of promotion and Rule 16(3) which relates to the School Committees and 17, 17(1) dealing with the prior approval of the competent authority Rule 17(3) making the grant payable to the private schools dependent upon the correctness of the suspension of teachers as may be determined by the competent authority and non-payment of grant to the substitute teachers and Rule 18 relating to punishment of the employees and appeal by them to competent authorities and Rule 22 imposing restriction on transfer of properties of the denominations and requiring the permission of the competent authority for the same and Rule 24 dealing with utilisation of funds and property of schools under the petitioner's management.

Writ Petition No.1364 of 1975

K. Parthasarathi,
Trustee and Correspondent,
Lady M.Ct. Muthiah Chettiar
Girls' High School,-
Purasawalkam, Madras-84

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PETITIONERS

Vs.

1. The State of Tamil Nadu represented by the Secretary to Government, Education Department, Fort Saint George, Madras-9.
2. The Inspectress of Girls' Schools, Madras Circle, Madras.

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RESPONDENTS

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith, the High Court will be pleased to issue a Writ of Mandamus directing the respondents herein to forbear from enforcing or attempting to enforce any of the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 (Act 29 of 1974) and Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974 in so far as the petitioner's Schools concerned in the State of Tamil Nadu.

W.P.No.1365 of 1975.

K. Parthasarathi,
Trustee and Correspondent,
Sir, M.Ct. Muthiah Chettiar
High School, Purasawalkam,
Madras-84

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PETITIONER

Vs.

1. The State of Tamil Nadu represented by the Secretary to Government, Education Department, Fort Saint George, Madras-9.
2. The District Educational Officer, Madras North, Madras-7.

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RESPONDENTS

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith, the High Court will be pleased to issue a Writ of Mandamus directing the Respondents herein to forbear from enforcing or attempting to enforce any of the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 (Act 29 of 1974) and Tamil Nadu Recognised Private Schools (Regulation) Rules 1974 in so far as the petitioner's School is concerned in the State of Tamil Nadu.

Writ Petition No.1750 of 1975

A.P.Natesan, Manager and Correspondent,
I. Ct. II. Chidambaram Chettiar High School,
M. Ct. M. Chidambaram Chettiar Memorial
Elementary School, Kanaḍukathan,
Ramanathapuram District

PETITIONER

Vs.

1. The State of Tamil Nadu represented by the Secretary to Government, Education Department, Port Saint George, Madras-9
 2. The District Educational Officer, Devakottai
 3. The Chief Educational Officer, Rannad at Madurai
- RESPONDENTS

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith, the High Court will be pleased to issue a Writ of Mandamus directing the Respondents to forbear from enforcing or attempting to enforce any of the provisions of the Tamil Nadu Private Schools (Regulation) Act, 1973 (Act 29 of 1974) and Tamil Nadu Private Schools (Regulation) Rules, 1974 against the petitioner in so far as the petitioner's schools are concerned in the State of Tamil Nadu.

WRIT PETITION NO. 226 of 1975

G. Ramaswamy, Manager,
Jothi Middle School,
Tiruparankundram Post,
Madurai Taluk, Madurai District

PETITIONER

Vs.

1. The State of Tamil Nadu represented
by the Secretary to Government,
Education Department, Fort Saint
George, Madras-9
2. The District Educational Officer,
Madurai, Madurai District.

RESPONDENTS

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith, the High Court will be pleased to issue a Writ of Mandamus directing the respondents above-named to forbear from enforcing or attempting to enforce any of the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act 1973 (Act 29 of 1974) and the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974 against the petitioner and his existing private school.

WRIT PETITION NO. 510 of 1975

V.C.A. Jeyapal,
Correspondent, Sattur Hindu
Nadar Edward High School
Sattur Hindu Nadar Edward
Middle School

PETITIONER

Vs.

The State of Tamil Nadu represented
by the Secretary to Government,
Education Department, Madras-9

RESPONDENT.

P.T.O.

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus directing the respondent herein and his subordinates to forbear from giving effect to the provisions of Section 5(3), 8(1)(a), (b) and (c), 11, 12, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 31, 34, 39, 40, 42, 43, 44, 45 and 46 of the Tamil Nadu Recognised Private Schools (Regulation) Act (Tamil Nadu Recognised Private School (Regulation) Rules 1974 with reference to the educational institutions of the petitioner in Sattur viz. Sattur Hindu Madras Edward High School and Sattur Hindu Madras Edwards Middle School in Tamil Nadu.

WRIT PETITION NO. 603 of 1975

Islamiah High School Vaniyambadi, represented by its correspondent and Secretary	{ { { { { }	PETITIONER
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Vs.

The State of Tamil Nadu represented by the Secretary, Education Department, Government of Tamil Nadu, Fort Saint George, Madras-9	{ { { { }	RESPONDENT
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Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith, the High Court will be pleased to issue a Writ of certiorari quashing the provisions of Sections 3, 8, 10, 11, 12, 13, 14, 15, 16, 17

P.T.O.

18, 21, 22, 23, 24, 25, 26, 31, 34, 39, 40, 41, 42, 43, 44, 45, 46 and 51 of the Tamil Nadu Recognised Private Schools (Regulation) Act (Tamil Nadu Act 29 of 1974) and the Rules 9, 12, 13, 14, 15, 17, 18 and 22 of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974 with reference to the educational institution of the petitioner at Vaniyanbadi in the State of Tamil Nadu.

WRIT PETITION NO. 683 of 1975

J.J. Daniel

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PETITIONER

Vs.

The Secretary to the State
of Tamil Nadu, Education
Department, Fort Saint George,
Madras-9

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RESPONDENT

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a writ of Mandamus directing the respondent to forbear from implementing the provisions of the Tamil Nadu Recognised Private Schools Regulation Act, 1973 and the (Tamil Nadu Act 29 of 1974) the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974, in so far as the petitioner's Schools are concerned in Tamil Nadu.

WRIT PETITION NO. 934 of 1975

T.K. Srinivasan,
Correspondent, Hindu
High School and Chatran
Committee, W trap

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PETITIONER

P.T.O.

Vs.

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| 1. The Secretary to the State
of Tamil Nadu, Education Department,
Fort Saint George, Madras. | | |
| 2. The District Educational Officer,
Virudhunagar. | | RESPONDENTS |
| 3. The Inspectress of Girls School,
Madurai Central, Madurai | | |

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith, the High Court will be pleased to issue a Writ of Mandamus directing the respondents to forbear from implementing the provisions of the Tamil Nadu Recognised Private Schools Regulations Act 1973 (Act 29 of 1974) and the Tamil Nadu Recognised Private Schools (Regulations) Rules 1974 in so far as the petitioner is concerned.

WRIT PETITION NO.953 of 1975.

Nagavathai Shri Meenakshi Vidyasala Paripalana Sangam Devakottai, Ramanathapuram District represented by its Secretary O. RM.H.SP.S.V. A.N. Annamalai Chettiar		
		PETITIONER

Vs.

The Government of Tamil Nadu represented by its Secretary to Government, Education Department, Madras-9		
		RESPONDENT

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be

P.T.C.

pleased to issue a Writ of Mandamus forbearing the respondent from implementing or giving effect to the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act 1973 and the Tamil Nadu Recognised Private Schools (Regulation) Act 1974 and the Rules framed thereunder in so far as it relates to the petitioners Educational Institution namely N.S.M.V.P.S. High School, Pethal Achi Girls High School and N.S.M.V.P.S. Elementary School, Devakottai run by the Nagarathar Sri Meenakshi Vidyasala P ripalana Sangam, Devakottai.

WRIT PETITION NO.1062 of 1975.

Salla M. Sabapathy Mudaliar. .. PETITIONER

Vs.

State of Tamil Nadu represented by the Secretary, Department of Education, Madras } RESPONDENT.

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus directing the respondent to forbear from implementing the provisions of the Tamil Nadu Recognised Private Schools Act (Act 29/74) and the Rules made thereunder in Sengunthar Middle School, Sholinghur is concerned.

WRIT PETITION NO.1081 of 1975.

Alagusundaram, Manager and Correspondent, Kalaimani Middle School, Mahboob Palayam, Madurai-10 } PETITIONER.

P.T.O.

Vs.

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| 1. The State of Tamil Nadu
represented by the Secretary
to Government, Ministry of
Education, Fort Saint George,
Madras-9 | | RESPONDENTS |
| 2. The District Educational Officer,
Madurai District, Madurai | | |

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a writ of Mandamus restraining the respondents and their Subordinates from giving effect to the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act 29 of 1974 and the Rules made thereunder with reference to the petitioner's Kalaimani Middle School, Mahboob Palayam, Madurai-10.

WRIT PETITION NO.1209 of 1975

S.M.B. Manickam Nadar, Correspondent of M.S.P. Solai Nadar Gnabakartha Uyar Nilaipalli, Dindigul		PETITIONER
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Vs.

State of Tamil Nadu represented by the Secretary to Government, Education Department, Madras-9		RESPONDENT
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Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus directing the Respondent herein and his subordinates to forbear from

P.T.O.

giving effect to the provisions of Sections 5(3), 8(1), (a), (b) and (c), 8(2), (a), 9, 11, 12, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 31, 34, 39, 40, 42, 43, 44, 45 and 46 of the Tamil Nadu Act 29 of 1974 and the Rules 9, 12, 13, 14, 17, 18, 21, 22 and 23 of the Tamil Nadu Recognised Private School (Regulation) Rules 1974 with reference to the educational institution of the petitioner M.S.P. Solai Nadar Gnabakartha Uyar Nilai Palli, Dindigul, Madurai District.

WRIT PETITION NO.1311 of 1975.

S.V.M. Seyed Cassim, Correspondent
Sathagathun Jaria Senior Basic School,
Kilakarai, Ramanathapuram District

} PETITIONER

Vs.

1. The State of Tamil Nadu represented
by Secretary to Government,
Education Department, Fort Saint
George, Madras-9

2. The Director of School Education,
College Road, Madras-6

3. The Deputy Inspector of Schools,
Tirupulani Range, Tirupulani,
Ramanathapuram Taluk and District

} RESPONDENTS

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus to forbear from implementing the provisions of the Tamil Nadu Recognised Private Schools (Regulations) Act, 1973 and Tamil Nadu Recognised Private Schools (Regulations) Rules 1974 in so far as the petitioner's school is concerned.

P.T.O.

WRIT PETITION NO.1361 of 1975.

J.R. Alwar Naidu
Secretary and Correspondent
Muthialpet High School
Dr. Rathinavelu Subramaniam
Muthialpet Girls High School
and Dr. Rathinavelu Subramaniam
Aided Primary School, Madras

PETITIONER

Vs.

1. The Secretary to the State of
Tamil Nadu, Education Department,
Fort Saint George, Madras-9
2. The Director of School Education,
Nungambakkam, Madras-6

RESPONDENTS.

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith, the High Court will be pleased to issue a Writ of Mandamus directing the respondents herein to forbear from enforcing or attempting to enforce any of the provisions of the Tamil Nadu Recognised Private Schools Regulation Act 1973 (Act 29 of 1974) and Tamil Nadu Recognised Private Schools (Regulation) Rules 1974 in so far as the petitioner's schools are concerned in the State of Tamil Nadu.

WRIT PETITION NO.1738 of 1975.

K.G. Jayarama Pillai,
Manager, Aided Elementary
School, Wallajah Taluk,
North Arcot District

PETITIONER

Vs.

1. The Secretary to the State of
Tamil Nadu, Education Department
Madras-9.
2. The District Educational Officer,
Vellore Education District, Vellore,
North Arcot District

RESPONDENTS.

P.T.O.

Petition under Article 226 of the Constitution of India, praying that in the circumstances, stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a writ of Mandamus, to forbear the respondents herein from implementing or giving effect to the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 (Act 29 of 1974) and rules made thereunder and the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974 in so far as it affects the petitioner's school.

WRIT PETITION NO.1908 of 1975.

K.N. Annaiappan .. PETITIONER.

Vs.

1. State of Tamil Nadu represented
by the Secretary to Government,
Education Department, Madras-9
 2. The Joint Director of Schools,
Education (Secondary), Madras-34
- RESPONDENTS.

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a writ of Mandamus restraining the respondent herein from enforcing the Tamil Nadu Recognised Private Schools (Regulation) Act 1973, Tamil Nadu Act 29/74, and the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974 in so far as the petitioner is concerned.

WRIT PETITION NO.1989 of 1975.

Narayana Guruviah Chettys' Charity
Aided Elementary School, Munjarpet,
North Arcot District by its Manager,
P. Manavala Chetty

PETITIONER

Vs.

State of Tamil Nadu, represented by
the Secretary, Department of Education,
Madras

RESPONDENT

Petition under Article 226 of the Constitution of

P.T.O.

Vs.

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| 1. The State of Tamil Nadu
represented by the Secretary
to Government, Ministry of
Education, Fort Saint George,
Madras-9 | | RESPONDENTS |
| 2. The District Educational Officer,
Madurai District, Madurai | | |

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a writ of Mandamus restraining the respondents and their Subordinates from giving effect to the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act 29 of 1974 and the Rules made thereunder with reference to the petitioner's Kalaimani Middle School, Mahboob Palayam, Madurai-10.

WRIT PETITION NO.1209 of 1975

S.M.B. Manickam Nadar, Correspondent of M.S.P. Solai Nadar Ghabakarhar Uyar Nilaipalli, Dindigul		PETITIONER
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Vs.

State of Tamil Nadu represented by the Secretary to Government, Education Department, Madras-9		RESPONDENT
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Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus directing the Respondent herein and his subordinates to forbear from

P.T.O.

giving effect to the provisions of Sections 5(3), 8(1), (a), (b) and (c) 8(2), (a), 9, 11, 12, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 31, 34, 39, 40, 42, 43, 44, 45 and 46 of the Tamil Nadu Act 29 of 1974 and the Rules 9, 12, 13, 14, 17, 18, 21, 22 and 23 of the Tamil Nadu Recognised Private School (Regulation) Rules 1974 with reference to the educational institution of the petitioner M.S.P. Solai Nadar Gnabakartha Uyar Nilai Palli, Dindigul, Madurai District.

WRIT PETITION NO.1311 of 1975.

S.V.M. Seyed Cassim, Correspondent
Sathagathun Jarie Senior Basic School,
Kilakarai, Ramanathapuram District

} PETITIONER

Vs.

1. The State of Tamil Nadu represented
by Secretary to Government,
Education Department, Fort Saint
George, Madras-9

2. The Director of School Education,
College Road, Madras-6

3. The Deputy Inspector of Schools,
Tirupulani Range, Tirupulani,
Ramanathapuram Taluk and District

} RESPONDENTS

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus to forbear from implementing the provisions of the Tamil Nadu Recognised Private Schools (Regulations) Act, 1973 and Tamil Nadu Recognised Private Schools (Regulations) Rules 1974 in so far as the petitioner's school is concerned.

P.T.O.

WRIT PETITION NO.1361 of 1975.

J.R. Alwar Naidu
Secretary and Correspondent
Muthialpet High School
Dr. Rathinavelu Subramaniam
Muthiapet Girls High School
and Dr. Rathnavelu Subramaniam
Aided Primary School, Madras

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PETITIONER

Vs.

1. The Secretary to the State of
Tamil Nadu, Education Department,
Fort Saint George, Madras-9
2. The Director of School Education,
Nungambakkam, Madras-6

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RESPONDENTS.

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith, the High Court will be pleased to issue a Writ of Mandamus directing the respondents herein to forbear from enforcing or attempting to enforce any of the provisions of the Tamil Nadu Recognised Private Schools Regulation Act 1973 (Act 29 of 1974) and Tamil Nadu Recognised Private Schools (Regulation) Rules 1974 in so far as the petitioner's schools are concerned in the State of Tamil Nadu.

WRIT PETITION NO.1738 of 1975.

K.G. Jayarama Pillai,
Manager, Aided Elementary
School, Wallajah Taluk,
North Arcot District

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PETITIONER

Vs.

1. The Secretary to the State of
Tamil Nadu, Education Department
Madras-9.
2. The District Educational Officer,
Vellore Education District, Vellore,
North Arcot District

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RESPONDENTS.

P.T.O.

Petition under Article 226 of the Constitution of India, praying that in the circumstances, stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a writ of Mandamus, to forbear the respondents herein from implementing or giving effect to the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 (Act 29 of 1974) and rules made thereunder and the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974 in so far as it affects the petitioner's school.

WRIT PETITION NO.1908 of 1975.

K.N. Ammaiyappan .. PETITIONER.

Vs.

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| 1. State of Tamil Nadu represented
by the Secretary to Government,
Education Department, Madras-9 | | RESPONDENTS. |
| 2. The Joint Director of Schools,
Education (Secondary), Madras-34 | | |

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a writ of Mandamus restraining the respondent herein from enforcing the Tamil Nadu Recognised Private Schools (Regulation) Act 1973, Tamil Nadu Act 29/74, and the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974 in so far as the petitioner is concerned.

WRIT PETITION NO.1989 of 1975.

Narayana Guruviah Chettys' Charity Aided Elementary School, Munjarpet, North Arcot District by its Manager, P. Manavala Chetty		PETITIONER
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Vs.

State of Tamil Nadu, represented by the Secretary, Department of Education, Madras		RESPONDENT
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Petition under Article 226 of the Constitution of

P.T.O.

India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a writ of Mandamus directing the respondent to forbear from implementing the provisions of the Tamil Nadu Recognised Private Schools Act (Act 29 of 1974) and for Rules made thereunder in Narayana Guruviah Chetty's Charity Aided Elementary School, Munjarpet, North Arcot District is concerned.

WRIT PETITION NO.2119 of 1975.

American Advent Mission Schools, }
by Correspondent Miss. Barbara White, }
American Advent Mission Compound, } PETITIONER
Guindy, Madras-32 }

Vs.

The State of Tamil Nadu represented by }
the Secretary to Government, } RESPONDENT
Education Department, Madras-9 }

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a writ of Mandamus directing the respondent above named to forbear from enforcing or attempting to enforce any of the provisions of the Tamil Nadu Recognised Private Schools Regulation Act (Act 29 of 1974) and the Tamil Nadu Recognised Private Schools (Regulation) Rule 1974, against the petitioner and her existing private schools.

P.T.O.

WRIT PETITION NO.2670 of 1975.

N.S. Pingapan: Secretary,
The Chintadripet Secondary School,
Association, Madras, Limited

PETITIONER

Vs.

1. The State of Tamil Nadu
represented by the Secretary to
Government, Education Department,
Fort Saint George, Madras-9
2. The District Educational Officer,
Madras (South), Gandhi Irvin Road,
Egmore, Madras-8
3. The Inspectress of Girls Schools,
Poonamalle High Road, Madras Circle,
Madras-84

RESPONDENTS

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus restraining the respondents herein from enforcing or attempting to enforce of the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act 1973 (Act 29/74) and the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974 against the petitioner.

WRIT PETITION NO.2671 of 1975.

M.B. Shanmughasundaran, Correspondent,
Chintadripet High School, Madras-2 and
Vice President, The Chintadripet Secondary
School Association, Madras Limited

PETITIONER

Vs.

1. The State of Tamil Nadu represented by
the Secretary to Government,
Education Department, Madras-9
2. The District Educational Officer,
Madras (South) Gandhi Irvin Road,
Madras-8

RESPONDENTS

P.T.O.

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus restraining the respondents herein from enforcing or attempting to enforce of the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act 1973 (Act 29/74 and the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974, and against the petitioners institution.

WRIT PETITION NO.2672 of 1975.

M.B. Shanmughasundaram, Correspondent, Chindadripet Middle School, Madras-2	 	PETITIONER
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Vs.

1. The Secretary to the State of Tamil Nadu, Education Department, Fort Saint George, Madras-9	 	RESPONDENTS
2. The District Educational Officer, Madras (South) Gandhi Irwin Road, Egmore, Madras	 	

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus restraining the respondents herein from enforcing or attempting to enforce of the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act 1973 (Act 29 of 1974) and the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974 against the petitioner's institution.

P.T.O.

WRIT PETITION NO.2673 of 1975

C.K. Duraivelan, Correspondent,
Chintadripet Kalavam Girls High School,
Madras-2

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PETITIONER

Vs.

1. The Secretary to the State of
Tamil Nadu, Education Department,
Fort Saint George, Madras-9
2. The District Educational Officer,
Madras (South) Gandhi Irwin Road,
Madras-8
3. The Inspectress of Girls Schools
Madras-Circle, Poonamallee High Road,
Madras-84

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RESPONDENTS

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus restraining the respondents herein from enforcing or attempting to enforce of the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act 1973 (Act 29 of 1974) and the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974 against the petitioner institution.

WRIT PETITION NO.2674 of 1975.

A.C. Munuswamy Reddy,
Correspondent, Rao Bahadur
Calavala Cunnan Chetty
Middle School, Madras-2

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PETITIONER.

Vs.

1. The Secretary to the State of
Tamil Nadu, Education Department,
Fort Saint George, Madras-9
2. The District Educational Officer,
Madras (South)-Gandhi Irwin Road,
Egmore, Madras-8

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RESPONDENTS

P.T.O.

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus restraining the respondents herein from enforcing or attempting to enforce any of the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act 1973 (Act 29 of 1974) and the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974 against the petitioner's institute.

WRIT PETITION NO.2675 of 1975.

M.P. Shanmughasundaram, Correspondent,
Alamelu Mangathyamma Montessori School,
Madras-2

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|| PETITIONER
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Vs.

1. The Secretary to the State of Tamil Nadu,
Education Department, Fort Saint George,
Madras-9

2. The District Educational Officer,
Madras (South)-Gandhi Irwin Road,
Egmore, Madras-8

3. The Inspectress of Girls Schools, Madras/

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|| RESPONDENTS.
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Circle,
Poonamallee
High Road,
Madras-84

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus restraining the respondents herein from enforcing or attempting to enforce of the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act 1973 (Act 29 of 1974) and the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974 against the petitioner.

P.T.C.

WRIT PETITION NO.2676 of 1975.

Mrs. Lakshmi Srinivasan,
Correspondent, -Dhanakoty Middle
School, Madras-2 and The Director
The Chintadripet Secondary School
Association, Madras Limited.

PETITIONER.

Vs.

1. The Secretary to the State of
Tamil Nadu, Education Department,
Fort Saint George, Madras-9
2. The District Educational Officer,
Madras (South) Gandhi Irwin Road,
Egmore, Madras

RESPONDENTS

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus restraining the respondents herein from enforcing or attempting to enforce of the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act 1973 (Act 29 of 1974) and the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974 against the petitioners institution.

WRIT PETITION NO.2677 of 1975.

N.S. Pinagapani, Correspondent,
Singaram Pillai High School, Konnur,
Villivekkam, Chingleput District

PETITIONER

Vs.

1. The Secretary to the State of Tamil Nadu,
Education Department, Fort Saint George,
Madras-9
2. The District Educational Officer,
Chingleput, Saidapet, Madras-18

RESPONDENTS

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and

P.T.O.

in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus restraining the respondents herein from enforcing or attempting to enforce of the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 (Act 29 of 1974) and the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974 against the petitioners institute.

WRIT PETITION NO.2678 of 1975.

N.S. Pinagapani, Secretary,
The Singaram Pillai School Society,
Konnur, Villivakkam,
Chingleput District. | PETITIONER.

Vs.

1. The Secretary to the State of Tamil Nadu, Education Department, Fort Saint George, Madras-9
 2. The District Educational Officer, Chingleput, Saidapet, Madras-15.
 3. The Inspectress of Girls Schools, Chingleput Circle, Chingleput-1
- | RESPONDENTS.

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus restraining the respondents herein from enforcing or attempting to enforce of the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act 1973 (Act 29 of 1974) and the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974 against the petitioner.

P.T.O.

WRIT PETITION NO.2679 of 1975.

N.S. Pinagapani, Correspondent,
Singaram Pillai Girls' High School,
Konnur, Villivakkam, Chingleput District. }

PETITIONER

Vs.

1. The Secretary to the State of Tamil Nadu,
Education Department, Fort Saint George,
Madras-9
2. The Inspectress of Girls Schools,
Chingleput Circle, Chingleput-1

RESPONDENTS

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus restraining the respondents herein from enforcing or attempting to enforce of the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act 1973 (Act 29 of 1974) and the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974 against the petitioners institution.

WRIT PETITION NO.2680 of 1975.

N.S. Pinagapani, Correspondent,
Singaram Pillai Primary School,
Konnur, Villivakkam, Chingleput District }

PETITIONER.

Vs.

1. The Secretary to the State of Tamil Nadu,
Education Department, Fort Saint George,
Madras-9
2. The District Educational Officer,
Chingleput, Saidapet, Madras-15

RESPONDENTS

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be
P.T.O.

pleased to issue a Writ of Mandamus restraining the respondents herein from enforcing or attempting to enforce of the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 (Act 29 of 1974) and the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974 against the petitioner's institution.

WRIT PETITION NO. 2780 of 1975.

Sri Thiruvatheswarar Free
High School, Madras, Managed
by Sri Thiruvatheswarar
Education Society, Madras by
President and Correspondent
T.R. Kannan

PETITIONER

Vs.

1. The Secretary to the State of Tamil Nadu,
Education Department, Fort Saint George,
Madras-9.
2. The District Educational Officer,
North Madras, Madras

RESPONDENTS.

Petition praying that in the circumstances stated therein and in the affidavit filed in support thereof, the High Court will be pleased to issue a writ of Mandamus, directing the respondents herein and their subordinates to forbear from giving effect to the provisions of sections 4,5,6,7,8,9,11,12,15,16,17,18,19,21,22,23,24,25,26,27,29,30, 31,33,34,35,37,39,40,41,42,43,44,45,46,47,48 of the Tamil Nadu Recognised Schools (Regulation) Act 1973. (Tamil Nadu Act 29 of 1974) and the Rules 4,5,6,13,15 (Forms VII A and VII B) 16, Annexure 11, 17, 18, 20, 21,22 of the Tamil Nadu Recognised School (Regulation) Rules 1974 with reference to the Educational Institution of the petitioner in the State of Tamil Nadu.

P.T.O.

WRIT PETITION NO.2944 of 1975.

O.M. Mohammed Hussain, Manager,
and Correspondent, Madaria Aided
Elementary School P. Konthagai,
Tittachari P.O., Nannilam (TALUK),
Thanjavur District

PETITIONER

Vs.

1. The Government of Tamil Nadu,
represented by its Secretary,
Education Department,
Fort Saint George, Madras-9

RESPONDENTS

2. The District Educational Officer,
Mayuran, Thanjavur District

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus forbearing the respondent from implementing or giving effect to the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act 1973 (Tamil Nadu Act, 29/74) and the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974 in so far as it relates to the Madaria Aided Elementary School - P. Konthagai, Thittacheri (P.O.), Nannilam Taluk, Thanjavur District run by the petitioner.

WRIT PETITION NO.3029 of 1975.

1. The President and Organizer
Thanjavur District Aided School,
Manager's Association K.R.N.Sastry.

PETITIONERS

2. The Secretary, Thanjavur District Aided
School Manager's Association,
R. Ganapathi

Vs.

The State of Tamil Nadu represented by
Secretary to Government, Educational
Department, Fort Saint George, Madras-9

RESPONDENT

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus directing the respondent herein and his subordinates to forbear from giving effect to the provisions of sections 5(1) (a) (b) and (c) and Sections 11, 12, 14, 16, 17, 18, 21, 22, 23, 24, 25, 26, 31, 32, 40, 42 and 43 to 46 of the Tamil Nadu Recognised Private Schools (Regulation) Act (Tamil Nadu Act 29/74) and the rules 9, 12, 13, 14, 17, 18 and 22 of the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974 with reference to all the members forming the Thanjavur District Aided School Manager's Association, 17, Angalamman Sannadhi, Tiruvarur and also to the members who are to be enrolled as members in the Association.

WRIT PETITION NO.3135 of 1975.

Velar D. Narayanan,
Correspondent, Anjugam High School, }
Madras-33 } PETITIONER.

Vs.

1. The State of Tamil Nadu represented
by the Secretary to Government,
Education Department, Fort Saint
George, Madras-9 }
RESPONDENTS.
2. The District Educational Officer,
Madras-(South) Gandhi Irwin Road,
Madras-8 }

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus restraining the

P.T.C.

respondents herein from enforcing or attempting to enforce of the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act 1973, (Act 29/74) and the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974 against the petitioner.

WRIT PETITION NO.3221 of 1975.

V.R. Saraswathi, Manager and
Correspondent, Melur Aided
non-mission Middle School, Melur,
Ponneri Taluk, Chingleput. }
PETITIONER.

Vs.

1. State of Tamil Nadu, represented
by its Secretary to Government,
Education, Fort Saint George, Madras-9. }
RESPONDENTS.
2. District Educational Officer, Saidapet,
Chingleput District, Madras-15. }

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus, restraining the respondents herein from enforcing or attempting to enforce the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 (Act 29 of 1974) and the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974 against the petitioner.

WRIT PETITION NO.3351 of 1975.

1. The Hindu High School Committee
represented by its Secretary, L.V.
Krishnaswami Iyer. }
PETITIONERS.
2. L.V. Krishnaswami Iyer, Member of the
Managing Committee, The Hindu High School,
Madras. }

Vs.

P.T.O.

1. The State of Tamil Nadu represented
by the Secretary to Government,
Education Department, Fort Saint George,
Madras-9
 2. The District Educational Officer,
Madras South, Madras-8
- RESPONDENTS

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a writ of Mandamus forbearing the respondents from implementing or giving effect to the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act 1973 and the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974 in so far as they affect the petitioners.

WRIT PETITION NO.3513 of 1975.

Pastor K. Naraiiah, Manager,
A.B.T.M. Higher Elementary
School, Nazerathpuram,
St. Thomas Mount Contonment,
Madras-10

PETITIONER

Vs.

1. The State of Tamil Nadu,
represented by the Secretary to
Government, Education Department,
Fort Saint George, Madras-9
 2. The District Educational Officer,
Saidapet, Madras-15
- RESPONDENTS.

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a writ of Mandamus restraining the respondents herein from implementing or giving effect to the

Tamil Nadu Recognised Private Schools (Regulation) Act 1973 (Act 29 of 1974) and the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974 in so far as it affects the petitioner's school.

WRIT PETITION NO.3756 of 1975.

V.S. Sundararajan .. PETITIONER.

Vs.

1. The State of Tamil Nadu, represented by the Secretary to Government, Education Department, Fort Saint George, Madras. RESPONDENTS.
2. The District Educational Officer, Kancheepuram.

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a writ of Mandamus restraining the respondents herein from implementing or giving effect to the Tamil Nadu Recognised Private Schools (Regulations) Act 1973 (Act 29 of 1974) and the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974 in so far as it affects the petitioner.

WRIT PETITION NO.5072 of 1975.

D. Manikrishna Reddy, PETITIONER.
Correspondent, D.V. Subramanian
Reddy High School, Minjur,
Chingleput District.

Vs.

1. The State of Tamil Nadu, represented by its Secretary to Government, Education Department, Fort Saint George, Madras. RESPONDENTS.
2. The District Education Officer, Chingleput, Saidapet, Madras.

P.T.O.

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus directing the respondents to forbear from enforcing or attempting to enforce any of the provisions of Act 29 of 1974 and Rules made thereunder or attempting to enforce any of the said Act and Rules made thereunder against the petitioner and the existing school.

WRIT PETITION NO.2075 of 1975.

A.L. Mary, Correspondent,
V.O.C. Middle School,
East Chintamani, Tiruchirapalli-2 } PETITIONER.

Vs.

1. The State of Tamil Nadu, represented
by the Secretary to Government,
Education Department, Madras-9. }
2. The District Educational Officer,
Tiruchirapalli, Education District,
Tiruchirapalli. } RESPONDENTS.

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a writ of Mandamus to forbear the respondents herein from implementing or giving effect to the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 (Act 29 of 1974) and Rules made thereunder, the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974 - in so far as it affects the petitioner.

P.T.O.

WRIT PETITION NO.768 of 1975.

A.S. Natarajan, Manager and
Correspondent of Pankajam
Middle School, Bodinayakanur,
Madurai District. }
PETITIONER.

Vs.

1. The Government of Tamil Nadu,
represented by its Secretary to
Government, Education Department,
Madras-9. }
RESPONDENT.

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus directing the respondent herein and his subordinates to forbear from giving effect to the provisions of Sections 8(1) (a) (b) and (c) 11,12,15,16, 17, 18, 21, 22, 23, 24, 25, 26,31, 33(2), 39, 40, 42, 43,44, 45, 46, 47,53 and 56 (2) (f) (i) (j) and (l) of the Tamil Nadu Recognised Private Schools (Regulation) Act (Tamil Nadu Act 29/74) and the Rules 9,12,13, 13(5), 14,17,18,20,21,22, 23 and 24 of the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974 with reference to the petitioners Educational Institution Pankajam Middle School, Bodinayakanur Madurai District in Tamil Nadu.

WRIT PETITION NO.769 of 1975.

A.S. Natarajan, Manager and
Correspondent of Pankajam Girls
High School, Bodinayakanur,
Madurai District. }
PETITIONER.

Vs.

The Government of Tamil Nadu,
represented by its Secretary to
Government, Education Department,
Madras-9. }
RESPONDENT.

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a writ of Mandamus directing the respondent herein and his subordinates to forbear from giving effect to the provisions of Sections 8(1) (a) (b) and (c) 11,12, 15, 16, 17, 18, 21, 22,23,24,25,26,28,31, 33(2), 39,40, 42,43,44,45,46,47, 53 and 56 (2) (f) (i) (j) and (l) of the Tamil Nadu Recognised Private Schools (Regulation) Act Tamil Nadu 29/74 and the Rules 9,12,13, 13(5), 14,17,18, 20,21,22,23 and 24 of the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974 with reference to the petitioners Educational Institution Pankajam Girls High School, Bodinayakanur, Madurai District in Tamil Nadu.

WRIT PETITION NO.770 of 1975.

A.S.S. Kasiraj, Manager and Correspondent of Shanmugar Arulneri Aided School, Bodinayakanur, Madurai District } PETITIONER.

Vs.

1. The Government of Tamil Nadu, represented by its Secretary to Government, Education Department, Madras-9. } RESPONDENT.

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a writ of Mandamus directing the respondent herein and his subordinates to forbear from giving effect to the provisions of sections 8(1) (a) (b) and (c), 11,12,15,16, 17,18,21,22,23,24,25,26,28,31,33 (2), 39,40,42,43,44,45,46, 47,53 and 56(2) (f) (i) (j) and (l) of the Tamil Nadu

P.T.O.

Recognised Private Schools (Regulation) Act (Tamil Nadu Act 29/74) and the Rules 1974 with reference to the petitioner's Educational Institution of Shanmugar Arulneri Aided School, Bodinayakanur Madurai District in Tamil Nadu.

WRIT PETITION NO.897 of 1975.

The Sourashtra High School, Council
Madurai by its Honorary Secondary
N.M.R. Jambunathan. } PETITIONER.

Vs.

1. The State of Tamil Nadu represented by
the Secretary to Government,
Education Department, Fort Saint George,
Madras-9
 2. The Director of School Education,
Nunganbakkam, Madras-34.
 3. The District Education Officer,
Madurai District, Madurai
- } RESPONDENTS.

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a writ of Mandamus directing the respondents to forbear from enforcing the provisions of the Tamil Nadu Recognised Private School Regulation Act 1973 and the Rules framed thereunder against the petitioner.

WRIT PETITION NO.1076 of 1975.

A. Muthiayan .. PETITIONER.

Vs.

The State of Tamil Nadu represented
by the Secretary to Government,
Education Department, Fort Saint George,
Madras-9. } RESPONDENT.

Petition under Article 226 of the Constitution of India, praying, that in the circumstances stated therein

and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus directing the respondent herein and his subordinates for forbear from giving effect to the provisions of Sections 8(1) (a)(b)(c), 11,12, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 28, 31,33(2), 39, 40, 42, 43, 44 to 47, 53 and 56 (2) (f), (i) (j) and (1) of the Tamil Nadu Recognised Private School Regulation Act Tamil Nadu Act 29/74 and the Rules 9, 12, 13(5), 14, 17, 18, 20 to 24 of the Tamil Nadu Recognised Private Schools Regulation Rules 1974 with reference to the institution off the petitioner.

WRIT PETITION NO.1640/75.

Vellayen Chettiar High School, Thiruvottiyur, represented by Correspondent, Manager, Pale Palaniappan		PETITIONER.
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Vs.

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| 1. The Secretary to the Government of
Tamil Nadu, Education Department,
Fort Saint George, Madras-9. | | |
| 2. Director of School Education,
College Road, Madras-6 | | RESPONDENTS. |
| 3. The District Educational Officer,
Chingleput, Saidapet,
Madras-15 | | |

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein, and in the affidavit filed therewith the High Court will be pleased to issue a writ of mandamus forbearing the respondents from applying the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act 1973 (Act 29 of 1974) in respect of the petitioner's School.

P.T.O.

ORDER: These writ petitions coming on for hearing on Wednesday the 13th, Monday the 18th, Tuesday the 19th, Monday the 25th, Tuesday the 26th, Wednesday the 27th, and Thursday the 28th days of August 1975 and upon perusing the petitions and the respective affidavits filed in support thereof, the orders of the High Court dated 25-12-1974 in W.P. 4478 of 1974; dated 27-1-1975 in W.P.No.294 of 1975; dated 4-3-1975 in W.P.No.1364 of 1975; dated 4-3-1975 in W.P. No.1365 of 1975; dated 14-3-1975 in W.P.No.1750 of 1975; dated 21-1-1975 in W.P.No.226 of 1975; dated 14-2-1975 in W.P.No.603 of 1975, dated 18-2-1975 in W.P.No.683 of 1975, dated 26-2-1975 in W.P.No.934 of 1975; dated 27-2-1975 in W.P.No.953 of 1975; dated 28-2-1975 in W.P.No.1062 of 1975; dated 28-2-1975 in W.P.No.1081 of 1975; dated 3-3-1975 in W.P.No.1209 of 1975, dated 4-3-1975 in W.P. No.1311 of 1975; dated 4-3-1975 in W.P.No.1361 of 1975; dated 14-3-1975 in W.P.No.1738 of 1975; dated 19-3-1975 in W.P.No.1908 of 1975; dated 20-3-1975 in W.P.No.1989 of 1975; dated 24-3-1975 in W.P.No.2119 of 1975; dated 11-4-1975 in W.P.No.2670 of 1975; dated 11-4-1975 in W.P.No.2671 of 1975; dated 11-4-1975 in W.P.No.2672 of 1975; dated 11-4-1975 in W.P.No.2673 of 1975; dated 11-4-1975 in W.P.No.2674 of 1975 dated 11-4-1975 in W.P.No.2675 of 1975; dated 11-4-1975 in W.P.No.2676 of 1975; dated 11-4-1975 in W.P.No.2677 of 1975; dated 11-4-1975 in W.P.No.2678 of 1975; dated 11-4-1975 in W.P.No.2679 of 1975; dated 11-4-1975 in W.P.No.2680 of

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1975 dated 16-4-1975 in W.P.No.2780/75; dated 25-4-1975 in W.P.No.2944 of 1975; dated 29-3-1975 in W.P. No.3029 of 1975; dated 2-5-1975 in W.P. No.3135 of 1975; dated 6-5-1975 in W.P.No.3221 of 1975; dated 8-5-1975 in W.P.No.3351 of 1975; dated 20-5-1975 in W.P. No.3513 of 1975; dated 29-5-1975 in W.P. No.3756 of 1975; dated 5-8-1975 in W.P. No.5072 of 1975; dated 24-3-1975 in W.P. No.2075 of 1975; dated 21-2-1975 in W.Ps. Nos. 768 to 770 of 1975, dated 26-2-1975 in W.P. No. 897 of 1975; dated 28-2-1975 in W.P. No.1076 of 1975 and dated 12-3-1975 in W.Ps. 1640 and 1641 of 1975 respectively and made therein and the counter affidavits filed with W.Ps. 4478 of 1974; 294 of 1975 and 226 of 1975 and the relevant records on the files of the respondents in all the petitions and comprised in the return of the respondents in all the petitions to the writs made by the High Court and upon hearing the arguments of Mr. M.T. Martin, advocate for the petitioners in W.P. No.4478 of 1974 of Mr. V.K.

Thiruvengkatachari for M/s. Devadasar and Sagar, M. Raghavan and G. Muthukrishnan, advocates for the petitioner in W.P. No.294 of 1975; of M/s. S. Chellaswamy, R. Arunagirinathan and D. Poppy, advocates for the petitioner in W.Ps. Nos. 1364, 1365 and 1750 of 1975; of Mr. T. Govindarajulu advocate for the petitioner in W.P. No.226 of 1975; of Mr. R. Janakiraman, advocate for the petitioner in W.P.No. 510 of 1975; of M/s. E.S. Govindan and Akbar Ali Dhale, advocate for the petitioner in W.P. No. 603 of 1975, of Mr.R. Nadanasabapathy, advocate for the petitioner in W.P. No.683 of 1975; of Mr. K. Sarvabhauman and S. Gopalaratnan,

advocates for the petitioner in W.P.No.934 of 1975; of Mr.R. Krishnamoorthy advocate for the petitioner in W.P. No.953 of 1975; of M/s. G. Narayanan and K. Gopal, advocates for the petitioner in W.P.No.1062 of 1975; of Mr. S. Balasubramanian, advocate for the petitioner in W.P. No. 1081 of 1975, of Mr. R. Janakiranan advocate for the petitioner in W.P. No.1209 of 1975. of Mr. P.M. Jummakhan, S.A. Kareem and M. Ananullah, advocates for petitioner in W.P. No.1311/1975 of Mr. S. Chelliaswamy, advocate for the petitioner in W.P. No.1361 of 1975; of Mr.G.K. Selvarajan advocate for the petitioner in W.P.No. 1738 of 1975; of M/s. S. Ramaswami and P. Rathinadurai, advocates for the petitioner in W.P. No.1908 of 1975; of M/s. G. Narayanan and K. Gopal advocates for petitioner in W.P. No.1989 of 1975 of Mr. J. Samuel, advocate for petitioner in W.P. No.2119 of 1975; of M/s. B.Lakshminarayana Reddi A.C. Munuswami Reddy and G. Kathirvelu, advocates for petitioner in W.Ps. 2670 of 1975 to 2680 of 1975; of Mr.N.M. Manivarma, advocate for the petitioner in W.P.No. 2780 of 1975; of Mr.R.Krishnamoorthy, D. Raju and A.R. Lakshmanan, advocates for the petitioner in W.P.No.2944 of 1975; of Mr. N. Vanchinathan, advocate for the petitioners in W.P.No.3629/75; of Mr. A.C.Munuswami Reddi, advocate for the petitioner in W.P.No.3135 of 1975 of Mr.B.Lakshminarayana Reddy, Advocate for the petitioner in W.P.No.3221 of 1975; of M/s. K. Ramaswami and L.K. Santaran, advocates for the petitioners in W.P.No. 3351 of 1975; of Mr. Sam V. Chelliah advocate for the petitioner in W.P.No.3513 of 1975; of Mr. Sam V. Chelliah,

advocate for the petitioner in W.P. No.3756 of 1975 of
Mr. B. Lakshminarayana Reddy, advocate for the petitioner
in W.P. No.2075/75 of Mr. S.M. Abdul Wahab, advocate for
one petitioner in W.P.No.2075 of 1975 of Mr.C.Krishnan, advocate for
the petitioner in W.Ps. Nos.768 to 770 of 1975 of Mr.O.V.
Balaswamy advocate for the petitioner in W.P.No.897 of
1975 and of Mr. K. Swamidurai advocate for petitioner in
W.P.1076/75 and of M/s. N.R. Chandran, Jyothi Balasunderam,
advocates for petitioner in W.P. Nos.1640 and 1641 of 1975
and of the Advocate-Gen ral assisted by Mr.S. Ramalingam,
Assistant Government Pleader and of the Government Pleader
on behalf of the respondents in all the petitions and
having stood over for consideration till this day, the
court made the following ORDER:

THE HON'BLE THE CHIEF JUSTICE.

A number of private schools, including minority
schools, by these petitions, impugn the validity of most
of the provisions of the Tamil Nadu Recognised Private
Schools (Regulation) Act. 1973 as invading and violative of
their fundamental right under Article 30 (1) of the
Constitution. In view of the prevailing Proclamation of
Emergency, attack on them based on Articles 14, 19 and 31
has not been pursued, though not given up. The Act
regulates private schools, in respect of establishment and
management of private schools, their recognition, their
withdrawal and effect, payment of grant, constitution of
School Committee, its membership, meetings and functions,
terms and conditions of service, qualification of teachers
and other employees, their appointment, discipline, appeals,

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revisions, restriction on alienation, control as to closure, control of school in certain other matters, inspection or inquiry and furnishing of returns, setting up of Tribunals and penalties. "Private School" means a pre-primary, primary, middle or high school or any other institution imparting education or training, established and administered or maintained by any person or body of persons, and recognised by the competent authority under the Act. But, certain types of schools like those imparting technical or professional education, or established and administered or maintained by the Central Government or the State Government or any local authority, maintained or approved by, or affiliated to, any University established by law, and those giving providing or imparting religious instruction alone, do not come under this. A minority school is a private school established and administered, or administered by any such minority whether based on religion or language as has the right to do so under clause (1) of Article 30 of the Constitution. A competent authority, for the purpose of the Act is, any authority, officer or person authorised by the Government, by notification, to perform the functions of the competent authority under its provisions for such area or in relation to such class of private schools, as may be specified in the notification. Two other expressions which pervade the Act and which we have to deal with are, "educational agency" and "school committee", the first of which in relation to any minority school, means any person who, or body of persons which, has established and is

administering or proposes to establish and administer such minority school; and (2) any other private school, means any person or body of persons permitted or deemed to be permitted under the Act to establish and maintain such other private school. "School committee" in relation to a private school means the school committee constituted under Section 15. In Chapter II which deals with establishment, permission for establishment and management of private schools, Government has taken power by Section 3, to regulate the different stages of education and courses of instruction in private schools. Except as otherwise provided, no private school can be established, as stated by Section 4, without the permission of the competent authority, and except in accordance with the terms and conditions specified in such permission. Sections 5 and 6 provide for application to the competent authority for permission, form of the application and conditions for grant of permission. Existing private schools, within six months from the date of commencement of the Act, should send to the competent authority a statement containing the particulars required by prescription, and on receipt of the statement, permission shall be deemed to have been granted to such schools. Section 8(1) (a) requires approval of the competent authority for any change in the constitution of the educational agency. Transfer of management of any private school can only be made with the prior approval of the competent authority therefor. Any minority whether based on religion or language may establish and administer any private school without permission. But,

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a minority school should send a statement to the competent authority, containing the particulars specified in Section 10, in Form V. The next chapter concerns with recognition of private schools. Not only a private school, the establishment of which has been permitted, or is deemed to have been permitted, but also any minority school, by section 11(1) (b), has to apply for and obtain recognition from the competent authority, who on satisfaction that proper arrangements have been made for the maintenance of academic standards in the school, the provisions of the Act are complied with and the prescribed conditions have been satisfied, may grant it. Section 12 empowers the competent authority to withdraw permanently or for a specified period, the recognition of any private school on certain grounds as that it does not comply with any of the provisions of the Act or rules made, that it defaults to disburse pay and allowances due to any teacher or other person employed in such school, in accordance with the provisions of the Act or the rules made thereunder, or that it contravenes or fails to comply with any such condition as may be prescribed. Of course, the competent authority, before withdrawing the recognition, shall give the educational agency an opportunity of making its representation. The effect of withdrawal of recognition is, that the related school shall not be entitled to receive any grant, or other financial assistance from Government, or prepare, train or guide pupils for appearing at any examination conducted by, or under the authority of, the

Government. Payment of Government grant, or withholding of the same for certain reasons, is governed by Section 14. Chapter IV which is subjected to the heaviest attack, deals with establishment of School Committee, its constitution and functions. The Chapter contains Sections 15 to 18, none of which is spared from attack on ground of invalidity. By Section 15, every private school shall have a duly constituted school committee which shall include the headmaster of the private school and the seniormost teachers employed in the private school. The number of representatives of the teachers on the committee shall be such as may be prescribed. Different number of representatives may be prescribed for different classes of private schools. Rule 12 while stating that the educational agency of every private school shall constitute a school committee, provides that the term of office of the Committee shall be three years, and the Members of the Committee shall be eligible for re-nomination. It also provides that the School Committee shall consist of Representatives of the educational agency who shall be nominated by such educational agency, provided that the employees of the school shall not be nominated under this category. The Headmaster of the school shall be an Ex-Officio Member. Two seniormost teachers of the school, if the strength of teachers in such schools is less than twenty, and three seniormost teachers, if the strength of teachers in such school is twenty and above, ^{shall} ~~will~~ also be Members of the School Committee.

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Further provision in the Rule is that the number of representatives of the teachers shall not be reduced on account of any decrease in the strength of teachers during the three years term of the Committee. The Rule requires that the educational agency shall increase the representation for the teachers on the said scale if the strength of the teachers is increased, and the teacher so nominated shall be a member of the Committee for the residual period of the tenure of the Committee and shall be eligible for renomination. When a vacancy of teachers' representatives in the Committee arises, the next seniormost teacher shall be nominated to the Committee; but, there shall be no change in the membership of the teachers' representative during the tenure of the Committee on account of the appointment of another senior teacher. For the purposes of the rule, the seniority shall be determined with reference to the total service rendered by the teacher in any recognised school or schools. The educational agency shall nominate one of its representatives in the Committee as the President. If the educational agency intends to change the President within the period of three years, it shall do so only with the prior approval of the District Educational Officer. Section 16 requires that every school Committee shall have a Secretary who shall exercise such powers and perform such functions as may be prescribed. This section also says that every person holding office as President, Secretary Manager or Correspondent of a private school, or exercising the powers of Secretary under the Act

on the date of commencement of the Act shall be deemed to be a Secretary under the Act. Rule 13 prescribes that the Educational agency shall nominate one of its representatives as the Secretary of the School Committee. It shall be open to the Educational agency to nominate the Headmaster as the Secretary. The term of office of the Secretary shall ordinarily be three years, and on the expiry of the term, he shall be eligible for renomination. If the Educational agency intends to change the Secretary within the period of three years, it shall do so only with the prior approval of the District Educational Officer. The Secretary of the School Committee shall function for, and on behalf of the School Committee and the Educational agency, and shall act on the basis of the resolutions passed at the meetings of the School Committee. The Secretary, shall not, however, interfere in the internal administration of the School, like admission, examinations, promotion of pupils and other academic matters which shall be the exclusive responsibility of the Headmaster. The Secretary is the person responsible for the correct maintenance of accounts and proper administration of school funds. Section 17 directs that the School Committee shall meet at such times and places and shall, subject to the provisions of sub-sections (2) and (3), observe such rules of procedure in regard to transaction of business at its meetings, including the quorum at meetings, as may be prescribed. But, it is necessary that the School Committee meets at least once in every three months. The President of

the School Committee, or in his absence, any member chosen by the members present, shall preside at a meeting of the School Committee. All questions at any meeting of the School Committee shall be decided by a majority of the votes of the members present, and voting, and in the case of an equality of votes, the President or, in his absence, the member presiding, shall have and exercise a second or casting vote. Rule 14 corresponding to Section 17, provides for the procedure for convening of the meeting by the Secretary with the approval of the President, and as to notice for convening the meeting, quorum and maintenance of minutes. The gravest offender, according to the petitioners, is Section 18, which deals with the functions of the School Committee and responsibility of the Educational agency under the Act, which is reproduced:

"18. (1) Subject to the provisions of this Act and the rule, made thereunder, the School Committee shall have the following functions, namely:--

- (a) to carry on the general administration of the private school, excluding the properties and funds of the private school;
- (b) to appoint teachers and other employees of the private school, fix their pay and allowances and define their duties and the conditions of their services and

- (c) to take disciplinary action against teachers and other employees of the private school.
- (2) The educational agency shall be bound by anything done by the School Committee in the discharge of the functions of that Committee under this Act.
- (3) For the purposes of this Act, any decision or action taken by the school committee in respect of any matter over which the school committee has jurisdiction shall be deemed to be the decision or action taken by the educational agency."

It may be seen that the general administration of the private school, excluding the properties and funds of the school, power to appoint teachers and other employees fixing their pay and allowances, defining their duties and prescribing their conditions of service, and power to take disciplinary action against teachers and other employees of the school, are all vested in the School Committee. What is more, the Educational agency shall be bound by anything done by the School Committee in the discharge of the functions of the Committee. Further, for the purposes of the Act, any decision or action taken by the School Committee in respect of any matter over which the School Committee has jurisdiction, shall be deemed to be the decision of, or action taken by, the Educational agency. Sections 19 to 21 in Chapter V relate to qualifications, conditions of service etc., of teachers and other persons employed in private schools, their appointment and about their being governed by a Code of Conduct.

Sub-section (2) of Section 21 gives the power to the School Committee to define the standards of conduct to be observed by

the teachers and other employees in a private school, such standards not being inconsistent with the provisions of the Act and the rules made thereunder. Rule 15 prescribed the number of teachers and other persons to be employed in a private school, agreement and Form of agreement which the private school,

and shall enter into with the teacher or other person in Forms VII-A or VII-B if the appointment is for a period exceeding three months, and as to how vacancy should be filled up and promotions to be made, and maintenance of service register. The teachers and other persons employed in a private school shall be governed by a Code of Conduct as specified in Annexure II to the Rules. Any violation of the Code will entail disciplinary action and punishment which may include dismissal or removal or termination of service or reduction in rank. Dismissal, removal or reduction in rank or suspension of teachers or other persons employed in a private school are regulated by Section 22 and Rule 17. Sub-section (1) of Section 22 says that subject to any rule that may be made in this behalf, no teacher or other person employed in any private school shall be dismissed, removed, or reduced in rank nor shall his appointment be otherwise terminated except with the prior approval of the competent authority. Where the proposal to dismiss, remove or reduce in rank or otherwise terminate the appointment of any teacher or other person employed in any private school is communicated to the competent authority, that authority shall,

if it is satisfied that there are adequate and reasonable grounds for such proposal, approve such dismissal, removal, reduction in rank or termination of appointment. No teacher or other person employed in any private school, as stated by Section 22 (3) shall be placed under suspension, except when an inquiry into the gross mis-conduct, within the meaning of the Code of Conduct prescribed under sub-section (1) of Section 21, of such teacher or other person is contemplated. Also, no such suspension shall remain in force for more than a period of two months from the date of suspension, but in the event of the inquiry not being completed within the period, such teacher or other person shall be deemed to have been restored as teacher or other employees. But, power is given to the competent authority to extend the time for completing the inquiry. An appeal and a second appeal are provided for against orders of dismissal, removal or reduction in rank or termination of appointment, and there are special provisions regarding appeals in certain past disciplinary cases.

Section 26 is to the effect that where any retrenchment of any teacher or other person employed in any private school is rendered necessary consequent on any order of the Government relating to education or course of instruction, or to any other matter, it shall be competent for the Government or the school committee of any private school to appoint such teacher or other person in any school or institution maintained by the Government or in such private school, as the case may be.

Section 27 requires that the pay and allowances of any teacher or other person employed shall be paid on or before the date

mentioned. Section 28 gives Chapter IV overriding effect. Chapter VI deals with control of private schools, in regard to closure of such schools, requirement on Educational agency to send list of properties, Fees and other charges, utilisation of funds and property of private schools, taking over management of private schools, relinquishment of control of property and not taking over of minority schools. In this Chapter Section 31 says that notwithstanding anything contained in any other law for the time being in force or in any deed, document or instrument having affect by virtue of such other law, no property of a private school shall, except with the previous permission in writing of the competent authority, be transferred by way of sale, exchange, mortgage, charge, pledge, lease, gift or any other manner whatsoever. If any such property is transferred without permission, the transfer shall be null and void. The competent authority can give permission if the transfer is made in furtherance of the purposes of the private school, or of similar purposes approved by the competent authority and the assets resulting from the transfer are to be wholly utilised in furtherance of the said purposes. The competent authority while granting permission, will be within its power to impose such conditions as it deems fit to ensure that such assets are wholly utilised in furtherance of the purposes. But, a contravention of any such condition shall not invalidate such transfer. Permission shall not be refused unless the applicant has been given an opportunity of making his representations. Chapter VII concerns itself with Accounts, Audit, Inspection and Return.

Section 39 says that the competent authority shall have the right to cause an inspection of, or inquiry in respect of, any private school, its buildings, laboratories, libraries, workshops and equipment, and also of the examinations, teaching and other work conducted or done by the private school, to be made by such person or persons as it may direct and to cause an inquiry to be made in respect of any other matter connected with the private school, and the Educational agency shall be entitled to be represented thereat. The views of the Competent authority shall be communicated to the Educational agency with reference to the results of such inspection or inquiry, and the Authority after ascertaining the opinion of the Educational agency may advise the Educational agency upon the action to be taken. The Educational agency shall report to such authority the action taken upon the results of such inspection or inquiry. Any direction which may issue from the Competent authority shall be complied with by the Educational agency. Section 40 requires furnishing of returns by the Educational agency within the prescribed time. There are then the general provisions under Chapter VIII as to appeals, and revisions against the orders of the competent authority, constitution of Tribunals, time for appeal, powers of appellate authority, deposit with the Tribunal of pay and allowances of teachers and other persons employed in private schools in certain cases. The penultimate Chapter provides for penalties and procedure. If any person, when required, by or under the Act or any rule made under it to furnish any information,

omits to do so, or furnishes information which he knows, or has reasonable cause to believe, to be false, or not true, in any material particular, he shall be punishable with fine which may extend to one hundred rupees. The last Chapter contains miscellaneous provisions as to delegation of powers of Government indemnity and publication of rules.

The provisions of the Act and the relevant rules made thereunder have been set out in detail not only for a convenient reference, but also to avoid repetition while dealing with specific argument related to each of the provisions. Sections 8(1), 11(1)(b), 12, 15 to 18, 21 to 26, 31, 39, 40 and 42 to 46 are, according to the petitioners, violative of Article 30(1) of the Constitution and are invalid in so far as they relate to minority schools, and in certain respects other private schools as well. We shall deal with the argument of the petitioners under the headings of Management, Discipline, Recognition, Restriction on alienation Inspection and Returns, Appeals and Penalties. But, before doing so, we shall briefly narrate the facts in one or two of the petitions as illustrative and then consider the scope and effect of Article 30(1) of the Constitution in its application to these cases.

The Society of the Brothers of the Sacred Heart of Jesus, Palayankottai, Tirunelveli district, is the first of the petitioners in W.P.No.4478 of 1974. The General Manager of the Society, one Rev. Brother A. Thomas, figures as the second petitioner. He has sworn to the affidavit in support of the petition. He is himself an Indian citizen professing Roman Catholic Faith and belongs to a religious minority. The

The Society of the Brothers of the Sacred Heart of Jesus, Palayankottai, Tirunelveli District, is the first of the petitioners in W.P.No.4478 of 1974. The General Manager of the Society, one Rev. Brother A. Thomas, figures as the second petitioner. He has sworn to the affidavit in support of the petition. He is himself an Indian citizen professing Roman Catholic Faith and belongs to a religious minority. The Society is one registered under the Societies Registration Act. It consists of members of the Roman Catholic Faith. Its religious objectives include in the main, promotion of education, inter alia, by establishing and administering schools, dispensaries, hospitals, orphanages, social centres etc. It has a Governing Body, the members of which also profess Roman Catholic Faith and belong to the religious minority. These facts were not denied. The Society has established numerous educational institutions in the States of Tamil Nadu, Kerala and Mysore, which are all recognised and aided schools. The cost of maintaining the institutions of the Society is met out of donations from members of the Roman Catholic Church, Roman Catholic Church Organizations and other well wishers, fees wherever permitted from Scholars and Grants-in-aid from the State Government. The funds required for establishing the said schools were wholly met by donations and aid received from the Roman Catholic Church and the members thereof. The several educational institutions of the Society, it is said, have been established and are being administered and maintained by the Society through its Governing Body, as educational institutions to conserve the

distinct religious faith and culture of the Catholic Christian Community of India and to inculcate and strengthen their spirit of worship, although no student is denied admission to any of these institutions merely on ground of religion, race, caste or language. The pre-primary, primary, middle, secondary and Training Schools of the Society are primarily meant for the training of the Catholic students for the Secondary School Leaving Certificate Examinations, conducted by the University of Madras, and also to offer to the said Roman Catholic students education in matters of morals and their religion, with a view to conserving their religion and culture. The Society claims that its various institutions established, administered and maintained by it are properly run in accordance with the Tamil Nadu Educational Rules and other Local and administrative requirements applicable thereto, and the results of the various schools have been uniformly good. The Society has its own Constitution providing for administration and maintenance of its several educational institutions, and its provisions cover the entire range of administration, including discipline of its staff, teachers and others and various other matters dealt with by the impugned Act and properly belonging to the Society's right to maintain and administer its own institutions. And so, according to the petitioners, the impugned provisions of the Act and the rules made thereunder as they deprive the Society of its fundamental right to administer its institutions and make complete inroads into it are violative of Article 30(1) and, therefore, unconstitutional.

The Tirunelveli Diocese of the Church of South India, is the petitioner in W.P.No.294 of 1975. The Rev. S.T. Paul Gnanaiah, the Moderator's Commissary who represents the Diocese is the second petitioner. He exercises the non-episcopal powers of the Bishop. The Protestant Christian Community and the Churches in Tirunelveli have been involved in the cause of education for over a century in Tirunelveli district, and have towards that end established and are maintaining 4 Colleges, 29 Secondary Schools, 4 Training Schools, 3 Special Schools, two for the handicapped and one for Industrial Training and 622 Primary and Middle Schools (Elementary). It is claimed that these many institutions developed over a long number of years have assumed huge proportions by now due to the excellence of academic standards maintained, and due to the administrative efficiency evolved through the experience of over 150 years, and that this growth and development was made possible by the dedicated leadership of the founders of the institutions, and subsequent leaders who took charge of them and managed the institutions with Missionary zeal. Mention is made of the fact that pupils are admitted in all the schools regardless of caste or community, and that though the institutions are managed by the minority community, there is great rush for admission from the general public because of the excellence of academic standards and the sense of discipline inculcated in the students, and the highly satisfactory management teacher relationship evolved during the course of a century. The educational institutions established by the Protestant Christian Community have been brought under the administrative set up of the Tirunelveli Diocese, when the Church of South India was formed in 1947. In that year, various Protestant Churches in South India became united. The different Churches functioning until then as

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different denominations merged into one United Church, the Church of South India. By the Constitution of the Church of South India, it is divided into several Dioceses for the purpose of administrative convenience. The Churches in Tirunelveli district come under the Tirunelveli Diocese which represents the Churches in Tirunelveli district that merged and formed the Church of South India. Under the Tirunelveli Diocesan Rules, the Tirunelveli Diocese of the Church of South India administers on behalf of the Churches, 4 Colleges, 29 Secondary Schools, 4 Training Schools, 3 Special Schools and 622 Primary and Middle Schools established by the Churches in the district. For the Colleges, the Bishop is the Manager. With regard to the schools, the supreme and final powers of administration of the Church vests in the Executive Committee of the Tirunelveli Diocesan Council. This Council consists of the Bishop, the office-bearers of the Diocesan Council, the Chairmen of the

Major Church Councils, two Clergymen, two Diocesan Worker Representatives and other elected representatives of the congregation and persons nominated by the Bishop. The total membership of the Committee is 50. There is an Executive Committee of the Diocesan Council, and there are Special Standing Committees to deal with special departments of the Diocesan Council's work like Standing Committee on Education, Standing Committee for Pastoral Work, Standing Committee for Medical work and the like. With regard to education, there is a Standing Committee on Education dealing with higher education which includes High Schools, Colleges and Training Schools and Special Schools. This Committee consists of the Bishop, Office-bearers of the Diocesan Council and Major Church Council Chairmen, Manager appointed by the Bishop on the recommendation of the Standing Committee on Education, all Principals of Colleges, One Correspondent from among Boys Secondary School Correspondents, One Correspondent from among the Girls Secondary School Correspondents, Five members of the Diocesan Executive Committee, of whom three shall be Headmasters or Headmistresses and two Assistant teachers, and not more than two persons nominated by the Bishop. As regards the day to day administration of the schools, there is a Manager, Correspondent, Headmaster, one Assistant Teacher, one Representative of the Old Boys and three members from the Educational Works Standing Committee and members from the local Church Committee. There are rules describing the

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powers of the Manager and the Governing Body of the Schools and all the decisions taken are ultimately subject to scrutiny by the Standing Committee on Education which in turn acts under the Executive Committee of the Diocesan Council. Rules have been framed which regulate appointment of teachers, seniority, transfer and disciplinary action against teachers. There are clear-cut spheres in which each authority functions. There is a right of appeal to the ultimate Standing Committee on Education guided by the Diocesan Council. This has been the set up for higher education dealing with High Schools, Training Schools and Special Schools. So far as elementary education is concerned, which includes primary and middle schools, the Diocesan Council functions through the Executive Committee and the Circle Committee which have got their own rules. This administrative set-up, the petitioners claim, has stood the test of time.

It is interesting to notice that the educational institutions under the management of the Diocese have no individual or separate right of property. The entire property is held in one unit by the Tirunelveli Diocesan Trust Association, a Company registered under the Companies' Act to hold the properties in trust for the objects of the Diocese which include the promotion and management of educational institutions among other objects. The petitioners say that the Central Administration with hierarchy of Committees subject to the ultimate control of the Executive Committee

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has ensured educational excellence, sound student discipline and teacher-management relationship and has gone on well and efficiently over the many years. The petitioners also say that with regard to transfer, appointment and disciplinary action against teaching and non-teaching staff, there are elaborate rules with checks and counter-checks to see that no injustice is done to any individual, and that the ultimate authority the Diocesan Council functioning through the Executive Council and consisting of 360 members is elected by the Congregation of Churches composed of Clergy, Teachers and laity, thus ensuring a democratic set-up, and at the same time maintaining the denominational character of the Christian faith.

The petitioners submit that the effect of the provisions of the Act is to displace from and deprive of the Society its Constitutional rights to follow its own set-up of administration and manage its institutions as detailed above. Recognition under Section 12 is made dependent upon compliance with the provisions of the Act or rules made, or directions issued thereunder, and, non-compliance involves withdrawal of recognition. Under Section 13, the right to receive any grant or financial assistance will depend upon recognition, and its continuity. The petitioners point out that compliance with the provisions of the Act will involve surrender of fundamental right to administer their institutions, and that such a law which lays down conditions that result in the effacement or encroachment of the fundamental right is unconstitutional. It is also stated that the right to get recognition for a

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school is similar to the right to get affiliation to the University by a College, and the State is not, therefore, justified in imposing any condition which is not related to any academic standard as a condition precedent for payment of grant, which is consequential to recognition. As to Chapter IV they say that if it is to be given effect to in the case of the petitioners, the elaborate existing administrative set-up established by them will be given the go-by and the administration will be carried on by a School Committee, after replacing the present Correspondent of the School by a Secretary of the School Committee, and displacement of the administrative body set-up by the minority community by a statutory body formed under the provisions of the Act and the rules, and that further under section 18, its sub clauses clearly make over the administration to the School Committee and under sub-section (2), the minority Educational agency is sought to be bound by the administrative acts of the School Committee, and further by the device of a legal fiction of a deeming provision in Section 18(3), the acts of the Committee constituted under the Act are deemed to be the acts of the Educational agency. The petitioners maintain that the functions enumerated in sub-clauses (a) to (c) of Section 18 are administrative functions of the minority educational agency, and such a right cannot be taken away by a deeming clause, and that the legal fiction cannot abrogate the fundamental right of the Minority Educational Agency. They have

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reiterated that they have themselves, in view of the enormous responsibility they have taken of maintaining the several institutions, have framed their own rules with the hierarchy of Committees for the various functions referred to in clauses (a) to (c) with rights to aggrieved persons to appeal. As at present, the Diocese has ultimate authority over all the educational institutions under its management, and appointment is considered from the total number of teachers employed by the Diocese and the personnel policy is framed by the Diocese in the larger interest of all concerned, including the teachers, non-teaching staff, pupils and the Diocese. To insist that each school should have its own School Committee and should be treated as a separate unconnected unit would interfere with the right of management of the schools by the Churches according to their own tradition and pattern. To interfere with the existing system of management and to replace the Standing Committee on Education and the Elementary Education Committee by numerous School Committees, one for each School would only lead to confusion and chaos in the management of schools. To divide the powers arbitrarily by statutory provisions between the School Committee, the Secretary and the Educational Agency, not in conformity with the Diocese's own form of management is a clear violation of the guarantees given to the minority to establish and administer educational institutions of its choice. In this context, it is relevant to point out that the great advantage afforded by the viability by having a single managing agency

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for all the schools will be wholly lost to the petitioners. In addition to these considerations the petitioners further say that the rules framed by the Diocese show that they have evolved a sound system to maintain their academic excellence, and also to ensure that there is cordial teacher-management relationship with rights of appeal to higher forums. The petitioners, therefore, want that Sections 15 to 18 should be declared to be inapplicable to minority schools, and so too rules 12, 13 and 14 relating to School Committees, as well as Section 21(2) as inapplicable to minority schools.

Referring to Section 9 which makes it clear that minority schools can be established without any permission under section 6, and to section 36 which provides that minority schools cannot be taken over under section 34, the petitioners submit that some of the provisions of Rule 9 are obnoxious to the fundamental right under Article 30(1). Rule 9(2)(c) by sub-clause (1) provides for endowments, by sub-clause (ii) for deposits of working capital, and by Rule 9(2)(f) for the Educational agency to carry out the instructions by the Government, including admission of pupils from backward classes. The rule also requires schools to create large endowments when the existing schools seek to upgrade them, or the minority schools seek to open new schools, the endowments being required in the form of money, The petitioners say that they have spent large amounts of money in erecting buildings and have adequate immovable

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properties to facilitate further development. The Diocese apart from its large immovable properties has a cash endowment of Rs.20 lakhs deposited with various banks, and therefore, to require the petitioners' schools to create the endowment of large amounts for granting recognition would infringe upon their right to establish institutions of their choice. As to Rule 9(2)(c)(ii) requiring provision for working capital to be available for disbursement of salary to the staff on the due date, in ~~the~~ event of any delay in the sanction of grant by the Education Department, the petitioners' schools have been directed by ~~the~~ Government not to levy fees and the Government have promised to pay the entire salary available for disbursement to the teachers employed by the private agency. It is stated, therefore, that the Government having taken the responsibility and liability to pay the entire salary of the members of the staff of the schools, it is not open to the State Government to prescribe a sum equivalent to a month's salary to be deposited as a working capital. This, according to the petitioners, also is violative of the fundamental right under Article 30(1). As for Rule 9(2)(f), the petitioners say that the Diocese, as the Educational agency, has a right to determine its own policy of admission and if desired necessary, to make provisions for what the Diocese may consider as socially and educationally backward classes, and therefore, the classification and criteria of Government

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cannot be insisted upon to be followed by the petitioners' schools. The point against the invalidity of Rule 9(2)(f) if supported by the further statement that though sections of the Christians who originally belonged to the so-called Scheduled castes are not treated as Scheduled castes by the authorities, it is open to the Diocese to give them preference in the matter of admission in their educational institutions, and that therefore, if the schools of the petitioners are to abide by the instructions of the Department in this regard, it would not be in the interest of the institutions under the management of the petitioners and the objects for which they were founded and are being administered. Section 8 which requires permission for any change in the Constitution of the School agency is attacked on the ground that the schools under the management of the Diocese are managed through their own Committees, and if to bring about any change in the constitution of the agency, the competent authority's approval is necessary, it would interfere with the right of the management of the Diocese of the school under its management to change its time honoured and well tried Constitution. In attacking Sections 22 to 26, it is stated that these sections also pertain to matters of administration which are integral part of the right of management guaranteed to the minority agency. The Diocese mentions that it has a single set of rules for all the schools, including rules of conduct, rules of seniority, rules for transfer and rules for disciplinary action against teachers with right to appeal etc. which has

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been in use for a long time. As regards Section 33(2), the petitioners aver that the properties are common to the Diocese, and the Section encroaches upon the right to property of a minority community engaged in education. Also with reference to Section 33(2) the petitioners say that the minority agency has a right to deposit its money in any form, and it is not open to the State to direct that the money should be invested only in particular banks. The provision in Chapter VIII in so far as they relate to appeals and revision are also objected to as offending the fundamental right under Art.30(1). The validity of Section 56(f) is objected to on the ground that it is inherent in the fundamental right that the minority can choose its pupils without interference from anyone. The petitioners want Rules 9(2)(c)(i), 9(2)(c)(ii), 9(2)(f) and (j), 10 to 14, 15(4)(ii), 16(3), 17, 18 and 22 along with the related forms prescribed should be made inapplicable to minority institutions. As for section 31(1)(a) restricting alienation of property of private schools, and Section 32 requiring prior approval for receiving any amount from anyone for the schools, Section 33 which provides for moneys of the schools to be deposited in a particular bank, Sections 41 to 45 relating to appeals and revisions, Section 56 which provides for the rule making power, Section 56(2)(j) enabling the Government to prescribe the purpose for which the premises of the minority schools could be used, and Section 56(2)(1) enabling the Government to prescribe conditions for receiving donations or contributions

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by the minority schools from the public, the rules relating to endowment, deposit of working capital, and rules relating to admissions in the private schools, Rule 10 authorising withdrawal of recognition for non-compliance with the statutory provisions, Rule 11(1) providing for consequential suspension of payment of grant, Rules 12, 13 and 14 relating to School Committees, Rule 15(2)(i) requiring the School agency to enter into an agreement in the prescribed form, Rules 15(3) and 15(4) relating to appointment of teachers and basis of promotion, Rule 16(3) relating to School Committees and Rule 17(1) dealing with the prior approval of the competent authority, Rule 17(3) making the grant payable to the private schools dependent upon the correctness of the suspension of teachers as may be determined by the competent authority, and non-payment of grant to the substitute teachers, Rule 18 relating to punishment of the employees and appeal by them to the competent authority, and Rules 22 and 24 imposing restriction on transfer of properties of the denominations and requiring the permission of the competent authority for the same, are all attacked as being in infringement of the petitioners' fundamental right under Article 30(1).

The State refutes all the allegations of the petitioners in these writ petitions and say that the impugned provisions of the Act and the rules are all valid.

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Under Article 30(1), all minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice. The right guaranteed under this Article is a fundamental right available to religious or linguistic minorities. This right is among the group of rights relating to freedom of religion, freedom to manage religious affairs, freedom as to attendance at religious instructions or religious worship in certain educational institutions, cultural and educational rights. Article 25(1) ensures that all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion; but this right is subject to public order, morality and health, and to the other provisions of Part III of the Constitution. Though the right under Article 25(1) is of a large amplitude, it is, however, not absolute. The right is subject to public order, morality and health and the other provisions of the part clause (2) of the Article further abridges the scope of the right. Again, the freedom to manage religious affairs given by Article 26 to religious denomination or any section thereof is not absolute either, because it is subject to public order, morality and health again. But, the right under each of Articles 28 to 30 is not subjected to any limitation or restriction. The right guaranteed in Article 30(1) is in absolute terms, and, no abridgement of the substance of the right is, therefore, permissible. Unlike

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the freedom under Article 19, the right under Article 30(1) cannot even be subjected to reasonable restriction in public interest. So, the right of a religious or linguistic minority to make its own choice of educational institutions, establish and administer the same, is of the widest amplitude, and is untrammelled. The test being what is good or is in the interest of the religious or linguistic minority, no other criterion like reasonableness or public interest can avail to abridge its scope and effect, for, otherwise the right will lose its purpose. The right is in two parts, (1) the right to establish; and (2) the right to administer. The right to establish an educational institution is secured to all religious or linguistic minorities, which include not merely religious or linguistic minority communities, but also individuals belonging to either of them. A person belonging to a religious or a linguistic minority is given, as in the case of the religious or linguistic minority community, unbridled and absolute right to establish any institution of his choice, which means that any restriction which will have the effect of abridging that right will be unconstitutional. Likewise, the right to administer is free from any limitation, so that a religious or linguistic minority community or an individual belonging to either, has the whole field of administration of the institution open, uninhibited by any interference. A religious or linguistic minority, including an individual belonging to it, has unfettered right to found any

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educational institution of its or his choice, and administer it according to its or his wish and discretion. But, as administration does not mean maladministration, any regulation which will engender proper administration will be permissible. So also will be permissible any regulation, procedural in character, which is designed to further the objects of the right and which does not in fact and substance, eat into the vitals of the right. While regulation of the right, therefore, is not open to objection, any restriction in the sense that it has the effect of abridging the right or making inroads into its substance, call it regulation or restriction, is unconstitutional. That, in our opinion, is the ambit and effect of the right under Article 30(1), and as laid down in the Supreme Court cases from Kerala Education Bill (1) to St. Xaviers College - vs - State of Gujarat (2). While there is this uniformity of opinion including in the recent decision of the Supreme Court in The Gandhi Faizem College, Saharanpur - vs - University of Agra (3) as to the scope and effect of Article 30(1) as expounded in the different cases, the problem in each case has presented seemingly differing approaches, or points of view or yardstick in testing the validity of an allegedly offending statutory provision or rule, or regulation or

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- (1) 1959 S.C.R. 995
(2) A.I.R. 1974 Supreme Court 1389
(3) Civil Appeal No. 1611 of 1969

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administrative order vis-a-vis the impact of it on the fundamental right . But we should think that throughout the various decisions of the Supreme Court, as we see them, the absolute character of the right has always been kept in view, and any erosion on its substance has not been permitted. Most of the earlier decisions of the Supreme Court were reviewed by a larger Bench of the same Court in St. Xavier College -vs- State of Gujarat(2).

We shall now take up Chapter IV relating to Constitution of School Committee and its functions which cover the field of management of the school, and discipline of the staff therein and pupils. Both are undoubtedly part of the right to administer a minority institution. The chapter consists of Sections 15 to 18. We have already set out earlier their substance . The effect of these provisions is this: The Educational Agency, which means with reference to a minority school, a person who, or body of persons which, has established and is administering such a school is to be replaced by a School Committee which shall include the Headmaster and the senior most teachers employed in the school. The Headmaster shall be Ex-Officio member. Two seniormost teachers, if the strength of the teachers in the school is less than twenty, and three seniormost teachers, if the strength of teachers

(2) A.I.R. 1974 Supreme Court 1389

is twenty and more, shall be nominated by the Educational Agency as members of the Committee, as it does its other nominees on the Committee. The Educational Agency has also been left free to appoint the President and Secretary out of its representatives. But, if the Educational Agency desires to change the President, or the Secretary, it can do so only with the prior approval of the District Educational Officer, the competent authority in this respect. Rules 12 and 13 which provide for ~~the~~ power to carry on the general administration of the private school, to appoint teachers and other employees, fix their pay and allowances and define their duties and conditions of service and to take disciplinary action against teachers and other employees of the school. On the top of this, the Educational Agency shall, by law, be bound by anything done by the School Committee in the discharge of its functions, and to crown it all, any decision of the committee within its jurisdiction shall be deemed to be the decision or action taken by the Educational Agency. This, in our opinion, is a total invasion of the fundamental right of the Educational Agency of a minority school to administer it. The general administration, appointment of teachers and other employees, fixation of pay and allowances and defining the duties of the employees and the conditions of their service and the power to take disciplinary action against teachers and other employees of the school without any doubt whatsoever, belonged to the sphere of

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administration and the right to administer the school. When these matters are taken away from the purview of the Educational Agency, it cannot, in our opinion, be denied that to that extent the provisions in Chapter IV and the related rules deprive the founders of a minority school of their right to administer the school, and the position is made worse when the Educational Agency is directed to be bound by anything done by the School Committee in the discharge of its functions when in fact any action or decision of the school committee within its jurisdiction shall be deemed to be the decision or action taken by the Educational Agency. In our opinion, Sections 15 to 18 and Rules 12 to 14 which have such effect of depriving the founder of the minority school of its or his right to administer the school are in flagrant violation of Article 30(1). This view receives support from State of Kerala -vs- Mother Irvincial (4). There the Kerala University Act, 1969 provided for Constitution of a Governing Body for a group of private Coll ges, and a Managing Council for a College which are all minority institutions to be set up by the Educational Agency, by which is meant the founder. The Governing Body should consist of eleven members, who are the Irincipal of the private college, the manager of the private college, a person nominated by the University, a person nominated by the Government, a person elected in

(4) A.I.R. 1970 Supreme Court 2079.

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1975 dated 16-4-1975 in W.P.No.2780/75 dated 25-4-1975 in W.P.No.2944 of 1975; dated 29-3-1975 in W.P. No.3029 of 1975; dated 2-5-1975 in W.P. No.3135 of 1975; dated 6-5-1975 in W.P.No.3221 of 1975; dated 8-5-1975 in W.P.No.3351 of 1975; dated 20-5-1975 in W.P. No.3513 of 1975; dated 29-5-1975 in W.P. No.3756 of 1975; dated 5-8-1975 in W.P. No.5072 of 1975; dated 24-3-1975 in W.P. No.2075 of 1975; dated 21-2-1975 in W.Ps. Nos. 768 to 770 of 1975, dated 26-2-1975 in W.P. No. 897 of 1975; dated 28-2-1975 in W.P. No.1076 of 1975 and dated 12-3-1975 in W.Ps. 1640 and 1641 of 1975 respectively and made therein and the counter affidavits filed with W.Ps. 4478 of 1974; 294 of 1975 and 226 of 1975 and the relevant records on the files of the respondents in all the petitions and comprised in the return of the respondents in all the petitions to the writs made by the High Court and upon hearing the arguments of Mr. M.T. Martin, advocate for the petitioners in W.P. No.4478 of 1974 of Mr. V.K.

Thiruvengkatachari for M/s. Devadasar and Sagar, M. Raghavan and G. Muthukrishnan, advocates for the petitioner in W.P. No.294 of 1975; of M/s. S. Chellaswamy, R. Arunagirinathan and D. Poppy, advocates for the petitioner in W.Ps. Nos. 1364, 1365 and 1750 of 1975; of Mr. T. Govindarajalu advocate for the petitioner in W.P. No.226 of 1975; of Mr. R. Janakiraman, advocate for the petitioner in W.P.No. 510 of 1975; of M/s. E.S. Govindan and Akbar Ali Dhale, advocate for the petitioner in W.P. No. 603 of 1975, of Mr.R. Nadasabapathy, advocate for the petitioner in W.P. No.683 of 1975; of Mr. K. Sarvabhauman and S. Gopalaratnam,

advocates for the petitioner in W.P.No.934 of 1975; of Mr.R. Krishnamoorthy advocate for the petitioner in W.P. No.953 of 1975; of M/s. G. Narayanan and K. Gopal, advocates for the petitioner in W.P.No.1062 of 1975; of Mr. S. Balasubramanian, advocate for the petitioner in W.P. No. 1081 of 1975, of Mr. R. Janakiraman advocate for the petitioner in W.P. No.1209 of 1975; of Mr. P.M. Jummakhan, S.A. Karoon and M. Ananullah, advocates for petitioner in W.P. No.1311/1975 of Mr. S. Chelliaswamy, advocate for the petitioner in W.P. No.1361 of 1975; of Mr.G.K. Selvarajan advocate for the petitioner in W.P.No. 1738 of 1975; of M/s. S. Ramaswami and P. Rathinadurai, advocates for the petitioner in W.P. No.1908 of 1975; of M/s. G. Narayanan and K. Gopal advocates for petitioner in W.P. No.1989 of 1975 of Mr. J. Samuel, advocate for petitioner in W.P. No.2119 of 1975; of M/s. B.Lakshminarayana Reddi A.C. Munuswami Reddy and G. Kathirvelu, advocates for petitioner in W.Ps. 2670 of 1975 to 2680 of 1975; of Mr.N.M. Manivarna, advocate for the petitioner in W.P.No. 2780 of 1975; of Mr.R.Krishnamoorthy, D. Raju and A.R. Lakshmanan, advocates for the petitioner in W.P.No.2944 of 1975; of Mr. N. Vanchinathan, advocate for the petitioners in W.P.No.3629/75; of Mr. A.C.Munuswami Reddi, advocate for the petitioner in W.P.No.3135 of 1975 of Mr.B.Lakshminarayana Reddy, Advocate for the petitioner in W.P.No.3221 of 1975; of M/s. K. Ramaswami and L.K. Santaran, advocates for the petitioners in W.P.No. 3351 of 1975; of Mr. Sam V. Chelliah advocate for the petitioner in W.P.No.3513 of 1975; of Mr. Sam V. Chelliah,

advocate for the petitioner in W.P. No.3756 of 1975 of Mr. B. Lakshminarayana Reddy, advocate for the petitioner in W.P. No.2075 of 1975 of Mr. S.M. Abdul Wahab, advocate for the petitioner in W.P.No.2075 of 1975 of Mr.C.Krishnan, advocate for the petitioner in W.Ps. Nos.768 to 770 of 1975 of Mr.O.V. Balaswamy advocate for the petitioner in W.P.No.897 of 1975 and of Mr. K. Swamidurai advocate for petitioner in W.P.1076/75 and of M/s. N.R. Chandran, Jyothi Balasunderam, advocates for petitioner in W.P. Nos.1640 and 1641 of 1975 and of the Advocate-General assisted by Mr.S. Ramalingam, Assistant Government Pleader and of the Government Pleader on behalf of the respondents in all the petitions and having stood over for consideration till this day, the court made the following ORDER:

THE HON'BLE THE CHIEF JUSTICE.

A number of private schools, including minority schools, by these petitions, impugn the validity of most of the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 as invading and violative of their fundamental right under Article 30 (1) of the Constitution. In view of the prevailing Proclamation of Emergency, attack on them based on Articles 14, 19 and 31 has not been pursued, though not given up. The Act regulates private schools, in respect of establishment and management of private schools, their recognition, their withdrawal and effect, payment of grant, constitution of School Committee, its membership, meetings and functions, terms and conditions of service, qualification of teachers and other employees, their appointment, discipline, appeals,

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revisions, restriction on alienation, control as to closure, control of school in certain other matters, inspection or inquiry and furnishing of returns, setting up of Tribunals and penalties. "Private School" means a pre-primary, primary, middle or high school or any other institution imparting education or training, established and administered or maintained by any person or body of persons, and recognised by the competent authority under the Act. But, certain types of schools like those imparting technical or professional education, or established and administered or maintained by the Central Government or the State Government or any local authority, maintained or approved by, or affiliated to, any University established by law, and those giving providing or imparting religious instruction alone, do not come under this. A minority school is a private school established and administered, or administered, by any such minority whether based on religion or language as has the right to do so under clause (1) of Article 30 of the Constitution. A competent authority, for the purpose of the Act is, any authority, officer or person authorised by the Government, by notification, to perform the functions of the competent authority under its provisions for such area or in relation to such class of private schools, as may be specified in the notification. Two other expressions which pervade the Act and which we have to deal with are, "educational agency" and "school committee", the first of which in relation to any minority school, means any person who, or body of persons which, has established and is

administering or proposes to establish and administer such minority school; and (2) any other private school, means any person or body of persons permitted or deemed to be permitted under the Act to establish and maintain such other private school. "School committee" in relation to a private school means the school committee constituted under Section 15. In Chapter II which deals with establishment, permission for establishment and management of private schools, Government has taken power by Section 3, to regulate the different stages of education and courses of instruction in private schools. Except as otherwise provided, no private school can be established, as stated by Section 4, without the permission of the competent authority, and except in accordance with the terms and conditions specified in such permission. Sections 5 and 6 provide for application to the competent authority for permission, form of the application and conditions for grant of permission. Existing private schools, within six months from the date of commencement of the Act, should send to the competent authority a statement containing the particulars required by prescription, and on receipt of the statement, permission shall be deemed to have been granted to such schools. Section 8(1) (a) requires approval of the competent authority for any change in the constitution of the educational agency. Transfer of management of any private school can only be made with the prior approval of the competent authority therefor. Any minority whether based on religion or language may establish and administer any private school without permission. But,

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a minority school should send a statement to the competent authority, containing the particulars specified in Section 10, in Form V. The next chapter concerns with recognition of private schools. Not only a private school, the establishment of which has been permitted, or is deemed to have been permitted, but also any minority school, by section 11(1) (b), has to apply for and obtain recognition from the competent authority, who on satisfaction that proper arrangements have been made for the maintenance of academic standards in the school, the provisions of the Act are complied with and the prescribed conditions have been satisfied, may grant it. Section 12 empowers the competent authority to withdraw permanently or for a specified period, the recognition of any private school on certain grounds as that it does not comply with any of the provisions of the Act or rules made, that it defaults to disburse pay and allowances due to any teacher or other person employed in such school, in accordance with the provisions of the Act or the rules made thereunder, or that it contravenes or fails to comply with any such condition as may be prescribed. Of course, the competent authority, before withdrawing the recognition, shall give the educational agency an opportunity of making its representation. The effect of withdrawal of recognition is, that the related school shall not be entitled to receive any grant, or other financial assistance from Government, or prepare, train or guide pupils for appearing at any examination conducted by, or under the authority of, the

Government. Payment of Government grant, or withholding of the same for certain reasons, is governed by Section 14. Chapter IV which is subjected to the heaviest attack, deals with establishment of School Committee, its constitution and functions. The Chapter contains Sections 15 to 18, none of which is spared from attack on ground of invalidity. By Section 15, every private school shall have a duly constituted school committee which shall include the headmaster of the private school and the seniormost teachers employed in the private school. The number of representatives of the teachers on the committee shall be such as may be prescribed. Different number of representatives may be prescribed for different classes of private schools. Rule 12 while stating that the educational agency of every private school shall constitute a school committee, provides that the term of office of the Committee shall be three years, and the Members of the Committee shall be eligible for renomination. It also provides that the School Committee shall consist of Representatives of the educational agency who shall be nominated by such educational agency, provided that the employees of the school shall not be nominated under this category. The Headmaster of the school shall be an Ex-Officio Member. Two seniormost teachers of the school, if the strength of teachers in such schools is less than twenty, and three seniormost teachers, if the strength of teachers in such school is twenty and above, ~~will~~ ^{shall} also be Members of the School Committee.

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Further provision in the Rule is that the number of representatives of the teachers shall not be reduced on account of any decrease in the strength of teachers during the three years term of the Committee. The Rule requires that the educational agency shall increase the representation for the teachers on the said scale if the strength of the teachers is increased, and the teacher so nominated shall be a member of the Committee for the residual period of the tenure of the Committee and shall be eligible for renomination. When a vacancy of teachers' representatives in the Committee arises, the next seniormost teacher shall be nominated to the Committee; but, there shall be no change in the membership of the teachers' representative during the tenure of the Committee on account of the appointment of another senior teacher. For the purposes of the rule, the seniority shall be determined with reference to the total service rendered by the teacher in any recognised school or schools. The educational agency shall nominate one of its representatives in the Committee as the President. If the educational agency intends to change the President within the period of three years, it shall do so only with the prior approval of the District Educational Officer. Section 16 requires that every school Committee shall have a Secretary who shall exercise such powers and perform such functions as may be prescribed. This section also says that every person holding office as President, Secretary Manager or Correspondent of a private school, or exercising the powers of Secretary under the Act

on the date of commencement of the Act shall be deemed to be a Secretary under the Act. Rule 13 prescribes that the Educational agency shall nominate one of its representatives as the Secretary of the School Committee. It shall be open to the Educational agency to nominate the Headmaster as the Secretary. The term of office of the Secretary shall ordinarily be three years, and on the expiry of the term, he shall be eligible for renomination. If the Educational agency intends to change the Secretary within the period of three years, it shall do so only with the prior approval of the ~~District~~ Educational Officer. The Secretary of the School Committee shall function for, and on behalf of the School Committee and the Educational agency, and shall act on the basis of the resolutions passed at the meetings of the School Committee. The Secretary, shall not, however, interfere in the internal administration of the School, like admission, examinations, promotion of pupils and other academic matters which shall be the exclusive responsibility of the Headmaster. The Secretary is the person responsible for the correct maintenance of accounts and proper administration of school funds. Section 17 directs that the School Committee shall meet at such times and places and shall, subject to the provisions of sub-sections (2) and (3), observe such rules of procedure in regard to transaction of business at its meetings, including the quorum at meetings, as may be prescribed. But, it is necessary that the School Committee meets at least once in every three months. The President of

the School Committee, or in his absence, any member chosen by the members present, shall preside at a meeting of the School Committee. All questions at any meeting of the School Committee shall be decided by a majority of the votes of the members present, and voting, and in the case of an equality of votes, the President or, in his absence, the member presiding, shall have and exercise a second or casting vote. Rule 14 corresponding to Section 17, provides for the procedure for convening of the meeting by the Secretary with the approval of the President, and as to notice for convening the meeting, quorum and maintenance of minutes. The gravest offender, according to the petitioners, is Section 18, which deals with the functions of the School Committee and responsibility of the Educational agency under the Act, which is reproduced:

"18. (1) Subject to the provisions of this Act and the rule, made thereunder, the School Committee shall have the following functions, namely:--

- (a) to carry on the general administration of the private school, excluding the properties and funds of the private school;
 - (b) to appoint teachers and other employees of the private school, fix their pay and allowances and define their duties and the conditions of their service;
- and

- (c) to take disciplinary action against teachers and other employees of the private school.
- (2) The educational agency shall be bound by anything done by the School Committee in the discharge of the functions of that Committee under this Act.
- (3) For the purposes of this Act, any decision or action taken by the school committee in respect of any matter over which the school committee has jurisdiction shall be deemed to be the decision or action taken by the educational agency."

It may be seen that the general administration of the private school, excluding the properties and funds of the school, power to appoint teachers and other employees fixing their pay and allowances, defining their duties and prescribing their conditions of service, and power to take disciplinary action against teachers and other employees of the school, are all vested in the School Committee. What is more, the Educational agency shall be bound by anything done by the School Committee in the discharge of the functions of the Committee. Further, for the purposes of the Act, any decision or action taken by the School Committee in respect of any matter over which the School Committee has jurisdiction, shall be deemed to be the decision of, or action taken by, the Educational agency. Sections 19 to 21 in Chapter V relate to qualifications, conditions of service etc., of teachers and other persons employed in private schools, their appointment and about their being governed by a Code of Conduct.

Sub-section (2) of Section 21 gives the power to the School Committee to define the standards of conduct to be observed by

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the teachers and other employees in a private school, such standards not being inconsistent with the provisions of the Act and the rules made thereunder. Rule 15 prescribed the number of teachers and other persons to be employed in a private school, agreement and Form of agreement which the private school,

and shall enter into with the teacher or other person in Forms VII-A or VII-B if the appointment is for a period exceeding three months, and as to how vacancy should be filled up and promotions to be made, and maintenance of service register. The teachers and other persons employed in a private school shall be governed by a Code of Conduct as specified in Annexure II to the Rules. Any violation of the Code will entail disciplinary action and punishment which may include dismissal or removal or termination of service or reduction in rank. Dismissal, removal or reduction in rank or suspension of teachers or other persons employed in a private school are regulated by Section 22 and Rule 17. Sub-section (1) of Section 22 says that subject to any rule that may be made in this behalf, no teacher or other person employed in any private school shall be dismissed, removed, or reduced in rank nor shall his appointment be otherwise terminated except with the prior approval of the competent authority. Where the proposal to dismiss, remove or reduce in rank or otherwise terminate the appointment of any teacher or other person employed in any private school is communicated to the competent authority, that authority shall

if it is satisfied that there are adequate and reasonable grounds for such proposal, approve such dismissal, removal, reduction in rank or termination of appointment. No teacher or other person employed in any private school, as stated by Section 22 (3) shall be placed under suspension, except when an inquiry into the gross mis-conduct, within the meaning of the Code of Conduct prescribed under sub-section (1) of Section 21, of such teacher or other person is contemplated. Also, no such suspension shall remain in force for more than a period of two months from the date of suspension, but in the event of the inquiry not being completed within the period, such teacher or other person shall be deemed to have been restored as teacher or other employees. But, power is given to the competent authority to extend the time for completing the inquiry. An appeal and a second appeal are provided for against orders of dismissal, removal or reduction in rank or termination of appointment, and there are special provisions regarding appeals in certain past disciplinary cases.

Section 26 is to the effect that where any retrenchment of any teacher or other person employed in any private school is rendered necessary consequent on any order of the Government relating to education or course of instruction, or to any other matter, it shall be competent for the Government or the school committee of any private school to appoint such teacher or other person in any school or institution maintained by the Government or in such private school, as the case may be.

Section 27 requires that the pay and allowances of any teacher or other person employed shall be paid on or before the date

mentioned. Section 28 gives Chapter IV overriding effect. Chapter VI deals with control of private schools, in regard to closure of such schools, requirement on Educational agency to send list of properties, Fees and other charges, utilisation of funds and property of private schools, taking over management of private schools, relinquishment of control of property and not taking over of minority schools. In this Chapter Section 31 says that notwithstanding anything contained in any other law for the time being in force or in any deed, document or instrument having affect by virtue of such other law, no property of a private school shall, except with the previous permission in writing of the competent authority, be transferred by way of sale, exchange, mortgage, charge, pledge, lease, gift or any other manner whatsoever. If any such property is transferred without permission, the transfer shall be null and void. The competent authority can give permission if the transfer is made in furtherance of the purposes of the private school, or of similar purposes approved by the competent authority and the assets resulting from the transfer are to be wholly utilised in furtherance of the said purposes. The competent authority while granting permission, will be within its power to impose such conditions as it deems fit to ensure that such assets are wholly utilised in furtherance of the purposes. But, a contravention of any such condition shall not invalidate such transfer. Permission shall not be refused unless the applicant has been given an opportunity of making his representations. Chapter VII concerns itself with Accounts, Audit, Inspection and Return.

Section 39 says that the competent authority shall have the right to cause an inspection of, or inquiry in respect of, any private school, its buildings, laboratories, libraries, workshops and equipment, and also of the examinations, teaching and other work conducted or done by the private school, to be made by such person or persons as it may direct and to cause an inquiry to be made in respect of any other matter connected with the private school, and the Educational agency shall be entitled to be represented thereat. The views of the Competent authority shall be communicated to the Educational agency with reference to the results of such inspection or inquiry, and the Authority after ascertaining the opinion of the Educational agency may advise the Educational agency upon the action to be taken. The Educational agency shall report to such authority the action taken upon the results of such inspection or inquiry. Any direction which may issue from the Competent authority shall be complied with by the Educational agency. Section 40 requires furnishing of returns by the Educational agency within the prescribed time. There are then the general provisions under Chapter VIII as to appeals, and revisions against the orders of the competent authority, constitution of Tribunals, time for appeal, powers of appellate authority, deposit with the Tribunal of pay and allowances of teachers and other persons employed in private schools in certain cases. The penultimate Chapter provides for penalties and procedure. If any person, when required, by or under the Act or any rule made under it to furnish any information,

omits to do so, or furnishes information which he knows, or has reasonable cause to believe, to be false, or not true, in any material particular, he shall be punishable with a fine which may extend to one hundred rupees. The last Chapter contains miscellaneous provisions as to delegation of powers of Government indemnity and publication of rules.

The provisions of the Act and the relevant rules made thereunder have been set out in detail not only for a convenient reference, but also to avoid repetition while dealing with specific argument related to each of the provisions. Sections 8(1), 11(1)(b), 12, 15 to 18, 21 to 26, 31, 39, 40 and 42 to 46 are, according to the petitioners, violative of Article 30(1) of the Constitution and are invalid in so far as they relate to minority schools, and in certain respects other private schools as well. We shall deal with the argument of the petitioners under the headings of Management, Discipline, Recognition, Restriction on alienation, Inspection and Returns, Appeals and Penalties. But, before doing so, we shall briefly narrate the facts in one or two of the petitions as illustrative and then consider the scope and effect of Article 30(1) of the Constitution in its application to these cases.

The Society of the Brothers of the Sacred Heart of Jesus, Palayankottai, Tirunelveli district, is the first of the petitioners in W.P.No.4478 of 1974. The General Manager of the Society, one Rev. Brother A. Thomas, figures as the second petitioner. He has sworn to the affidavit in support of the petition. He is himself an Indian citizen professing Roman Catholic Faith and belongs to a religious minority. The

The Society of the Brothers of the Sacred Heart of Jesus, Palayamkottai, Tirunelveli District, is the first of the petitioners in W.P.No.4478 of 1974. The General Manager of the Society, one Rev. Brother A. Thomas, figures as the second petitioner. He has sworn to the affidavit in support of the petition. He is himself an Indian citizen professing Roman Catholic Faith and belongs to a religious minority. The Society is one registered under the Societies Registration Act. It consists of members of the Roman Catholic Faith. Its religious objectives include in the main, promotion of education, inter alia, by establishing and administering schools, dispensaries, hospitals, orphanages, social centres etc. It has a Governing Body, the members of which also profess Roman Catholic Faith and belong to the religious minority. These facts were not denied. The Society has established numerous educational institutions in the States of Tamil Nadu, Kerala and Mysore, which are all recognised and aided schools. The cost of maintaining the institutions of the Society is met out of donations from members of the Roman Catholic Church, Roman Catholic Church Organizations and other well wishers, fees wherever permitted from Scholars and Grants-in-aid from the State Government. The funds required for establishing the said schools were wholly met by donations and aid received from the Roman Catholic Church and the members thereof. The several educational institutions of the Society, it is said, have been established and are being administered and maintained by the Society through its Governing Body, as educational institutions to conserve the

distinct religious faith and culture of the Catholic Christian Community of India and to inculcate and strengthen their spirit of worship, although no student is denied admission to any of these institutions merely on ground of religion, race, caste or language. The pre-primary, primary, middle, secondary and Training Schools of the Society are primarily meant for the training of the Catholic students for the Secondary School Leaving Certificate Examinations, conducted by the University of Madras, and also to offer to the said Roman Catholic students education in matters of morals and their religion, with a view to conserving their religion and culture. The Society claims that its various institutions established, administered and maintained by it are properly run in accordance with the Tamil Nadu Educational Rules and other Local and administrative requirements applicable thereto, and the results of the various schools have been uniformly good. The Society has its own Constitution providing for administration and maintenance of its several educational institutions, and its provisions cover the entire range of administration, including discipline of its staff, teachers and others and various other matters dealt with by the impugned Act and properly belonging to the Society's right to maintain and administer its own institutions. And so, according to the petitioners, the impugned provisions of the Act and the rules made thereunder, as they deprive the Society of its fundamental right to administer its institutions and make complete inroads into it are violative of Article 30(1) and, therefore, unconstitutional.

The Tirunelveli Diocese of the Church of South India, is the petitioner in W.P.No.294 of 1975. The Rev. S.T. Paul Gnanaiah, the Moderator's Commissary who represents the Diocese is the second petitioner. He exercises the non-episcopal powers of the Bishop. The Protestant Christian Community and the Churches in Tirunelveli have been involved in the cause of education for over a century in Tirunelveli district, and have towards that end established and are maintaining 4 Colleges, 29 Secondary Schools, 4 Training Schools, 3 Special Schools, two for the handicapped and one for Industrial Training and 622 Primary and Middle Schools (Elementary). It is claimed that these many institutions developed over a long number of years have assumed huge proportions by now due to the excellence of academic standards maintained, and due to the administrative efficiency evolved through the experience of over 150 years, and that this growth and development was made possible by the dedicated leadership of the founders of the institutions, and subsequent leaders who took charge of them and managed the institutions with Missionary zeal. Mention is made of the fact that pupils are admitted in all the schools regardless of caste or community, and that though the institutions are managed by the minority community, there is great rush for admission from the general public because of the excellence of academic standards and the sense of discipline inculcated in the students, and the highly satisfactory management teacher relationship evolved during the course of a century. The educational institutions established by the Protestant Christian Community have been brought under the administrative set up of the Tirunelveli Diocese, when the Church of South India was formed in 1947. In that year, various Protestant Churches in South India became united. The different Churches functioning until then as

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different denominations merged into one United Church, the Church of South India. By the Constitution of the Church of South India, it is divided into several Dioceses for the purpose of administrative convenience. The Churches in Tirunelveli district come under the Tirunelveli Diocese which represents the Churches in Tirunelveli district that merged and formed the Church of South India. Under the Tirunelveli Diocesan Rules, the Tirunelveli Diocese of the Church of South India administers on behalf of the Churches, 4 Colleges, 29 Secondary Schools, 4 Training Schools, 3 Special Schools and 622 Primary and Middle Schools established by the Churches in the district. For the Colleges, the Bishop is the Manager. With regard to the schools, the supreme and final powers of administration of the Church vests in the Executive Committee of the Tirunelveli Diocesan Council. This Council consists of the Bishop, the office-bearers of the Diocesan Council, the Chairmen of the

Major Church Councils, two Clergymen, two Diocesan Worker Representatives and other elected representatives of the congregation and persons nominated by the Bishop. The total membership of the Committee is 50. There is an Executive Committee of the Diocesan Council, and there are Special Standing Committees to deal with special departments of the Diocesan Council's work like Standing Committee on Education, Standing Committee for Pastoral Work, Standing Committee for Medical work and the like. With regard to education, there is a Standing Committee on Education dealing with higher education which includes High Schools, Colleges and Training Schools and Special Schools. This Committee consists of the Bishop, Office-bearers of the Diocesan Council and Major Church Council Chairmen, Manager appointed by the Bishop on the recommendation of the Standing Committee on Education, all Principals of Colleges, One Correspondent from among Boys Secondary School Correspondents, One Correspondent from among the Girls Secondary School Correspondents, Five members of the Diocesan Executive Committee, of whom three shall be Headmasters or Headmistresses and two Assistant teachers, and not more than two persons nominated by the Bishop. As regards the day to day administration of the schools, there is a Manager, Correspondent, Headmaster, one Assistant Teacher, one Representative of the Old Boys and three members from the Educational Works Standing Committee and members from the local Church Committee. There are rules describing the

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powers of the Manager and the Governing Body of the Schools and all the decisions taken are ultimately subject to scrutiny by the Standing Committee on Education which in turn acts under the Executive Committee of the Diocesan Council. Rules have been framed which regulate appointment of teachers, seniority, transfer and disciplinary action against teachers. There are clear-cut spheres in which each authority functions. There is a right of appeal to the ultimate Standing Committee on Education guided by the Diocesan Council. This has been the set up for higher education dealing with High Schools, Training Schools and Special Schools. So far as elementary education is concerned, which includes primary and middle schools, the Diocesan Council functions through the Executive Committee and the Circle Committee which have got their own rules. This administrative set-up, the petitioners claim, has stood the test of time.

It is interesting to notice that the educational institutions under the management of the Diocese have no individual or separate right of property. The entire property is held in one unit by the Tirunelveli Diocesan Trust Association, a Company registered under the Companies' Act to hold the properties in trust for the objects of the Diocese, which include the promotion and management of educational institutions among other objects. The petitioners say that the Central Administration with hierarchy of Committees subject to the ultimate control of the Executive Committee

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has ensured educational excellence, sound student discipline and teacher-management relationship and has gone on well and efficiently over the many years. The petitioners also say that with regard to transfer, appointment and disciplinary action against teaching and non-teaching staff, there are elaborate rules with checks and counter-checks to see that no injustice is done to any individual, and that the ultimate authority the Diocesan Council functioning through the Executive Council and consisting of 360 members is elected by the Congregation of Churches composed of Clergy, Teachers and laity, thus ensuring a democratic set-up, and at the same time maintaining the denominational character of the Christian faith.

The petitioners submit that the effect of the provisions of the Act is to displace from and deprive of the Society its Constitutional rights to follow its own set-up of administration and manage its institutions as detailed above. Recognition under Section 12 is made dependent upon compliance with the provisions of the Act or rules made, or directions issued thereunder, and, non-compliance involves withdrawal of recognition. Under Section 13, the right to receive any grant or financial assistance will depend upon recognition, and its continuity. The petitioners point out that compliance with the provisions of the Act will involve surrender of fundamental right to administer their institutions, and that such a law which lays down conditions that result in the effacement or encroachment of the fundamental right is unconstitutional. It is also stated that the right to get recognition for a

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school is similar to the right to get affiliation to the University by a College, and the State is not, therefore, justified in imposing any condition which is not related to any academic standard as a condition precedent for payment of grant, which is consequential to recognition. As to Chapter IV they say that if it is to be given effect to in the case of the petitioners, the elaborate existing administrative set-up established by them will be given the go-by and the administration will be carried on by a School Committee, after replacing the present Correspondent of the School by a Secretary of the School Committee, and displacement of the administrative body set-up by the minority community by a statutory body formed under the provisions of the Act and the rules, and that further under section 18, its sub clauses clearly make over the administration to the School Committee and under sub-section (2), the minority Educational agency is sought to be bound by the administrative acts of the School Committee, and further by the device of a legal fiction of a deeming provision in Section 18(3), the acts of the Committee constituted under the Act are deemed to be the acts of the Educational agency. The petitioners maintain that the functions enumerated in sub-clauses (a) to (c) of Section 18 are administrative functions of the minority educational agency, and such a right cannot be taken away by a deeming clause, and that the legal fiction cannot abrogate the fundamental right of the Minority Educational Agency. They have

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reiterated that they have themselves, in view of the enormous responsibility they have taken of maintaining the several institutions, have framed their own rules with the hierarchy of Committees for the various functions referred to in clauses (a) to (c) with rights to aggrieved persons to appeal. As at present, the Diocese has ultimate authority over all the educational institutions under its management, and appointment is considered from the total number of teachers employed by the Diocese and the personnel policy is framed by the Diocese in the larger interest of all concerned, including the teachers, non-teaching staff, pupils and the Diocese. To insist that each school should have its own School Committee and should be treated as a separate unconnected unit would interfere with the right of management of the schools by the Churches according to their own tradition and pattern. To interfere with the existing system of management and to replace the Standing Committee on Education and the Elementary Education Committee by numerous School Committees, one for each School would only lead to confusion and chaos in the management of schools. To divide the powers arbitrarily by statutory provisions between the School Committee, the Secretary and the Educational Agency, not in conformity with the Diocese's own form of management is a clear violation of the guarantees given to the minority to establish and administer educational institutions of its choice. In this context, it is relevant to point out that the great advantage afforded by the viability by having a single managing agency

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for all the schools will be wholly lost to the petitioners. In addition to these considerations the petitioners further say that the rules framed by the Diocese show that they have evolved a sound system to maintain their academic excellence, and also to ensure that there is cordial teacher-management relationship with rights of appeal to higher forums. The petitioners, therefore, want that Sections 15 to 18 should be declared to be inapplicable to minority schools, and so too rules 12, 13 and 14 relating to School Committees, as well as Section 21(2) as inapplicable to minority schools.

Referring to Section 9 which makes it clear that minority schools can be established without any permission under section 6, and to section 36 which provides that minority schools cannot be taken over under section 34, the petitioners submit that some of the provisions of Rule 9 are obnoxious to the fundamental right under Article 30(1). Rule 9(2)(c) by sub-clause (1) provides for endowments, by sub-clause (ii) for deposits of working capital, and by Rule 9(2)(f) for the Educational agency to carry out the instructions by the Government, including admission of pupils from backward classes. The rule also requires schools to create large endowments when the existing schools seek to upgrade them, or the minority schools seek to open new schools, the endowments being required in the form of money. The petitioners say that they have spent large amounts of money in erecting buildings and have adequate immovable

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properties to facilitate further development. The Diocese apart from its large immovable properties has a cash endowment of Rs.20 lakhs deposited with various banks, and therefore, to require the petitioners' schools to create the endowment of large amounts for granting recognition would infringe upon their right to establish institutions of their choice. As to Rule 9(2)(c)(ii) requiring provision for working capital to be available for disbursement of salary to the staff on the due date, in the event of any delay in the sanction of grant by the Education Department, the petitioners' schools have been directed by the Government not to levy fees and the Government have promised to pay the entire salary available for disbursement to the teachers employed by the private agency. It is stated, therefore, that the Government having taken the responsibility and liability to pay the entire salary of the members of the staff of the schools, it is not open to the State Government to prescribe a sum equivalent to a month's salary to be deposited as a working capital. This, according to the petitioners, also is violative of the fundamental right under Article 30(1). As for Rule 9(2)(f), the petitioners say that the Diocese, as the Educational agency, has a right to determine its own policy of admission and if desired necessary, to make provisions for what the Diocese may consider as socially and educationally backward classes, and therefore, the classification and criteria of Government

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cannot be insisted upon to be followed by the petitioners' schools. The point against the invalidity of Rule 9(2)(f) if supported by the further statement that though sections of the Christians who originally belonged to the so-called Scheduled castes are not treated as Scheduled castes by the authorities, it is open to the Diocese to give them preference in the matter of admission in their educational institutions, and that therefore, if the schools of the petitioners are to abide by the instructions of the Department in this regard, it would not be in the interest of the institutions under the management of the petitioners and the objects for which they were founded and are being administered. Section 8 which requires permission for any change in the Constitution of the School agency is attacked on the ground that the schools under the management of the Diocese are managed through their own Committees, and if to bring about any change in the constitution of the agency, the competent authority's approval is necessary, it would interfere with the right of the management of the Diocese of the school under its management to change its time honoured and well tried Constitution. In attacking Sections 22 to 26, it is stated that these sections also pertain to matters of administration which are integral part of the right of management guaranteed to the minority agency. The Diocese mentions that it has a single set of rules for all the schools, including rules of conduct, rules of seniority, rules for transfer and rules for disciplinary action against teachers with right to appeal etc. which has

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been in use for a long time. As regards Section 33(2), the petitioners aver that the properties are common to the Diocese, and the Section encroaches upon the right to property of a minority community engaged in education. Also with reference to Section 33(2) the petitioners say that the minority agency has a right to deposit its money in any form, and it is not open to the State to direct that the money should be invested only in particular banks. The provision in Chapter VIII in so far as they relate to appeals and revision are also objected to as offending the fundamental right under Art.30(1). The validity of Section 56(f) is objected to on the ground that it is inherent in the fundamental right that the minority can choose its pupils without interference from anyone. The petitioners want Rules 9(2)(c)(i), 9(2)(c)(ii), 9(2)(f) and (j), 10 to 14, 15(4)(ii), 16(3), 17, 18 and 22 along with the related forms prescribed should be made inapplicable to minority institutions. As for section 31(1)(a) restricting alienation of property of private schools, and Section 32 requiring prior approval for receiving any amount from anyone for the schools, Section 33 which provides for moneys of the schools to be deposited in a particular bank, Sections 41 to 45 relating to appeals and revisions, Section 56 which provides for the rule making power, Section 56(2)(j) enabling the Government to prescribe the purpose for which the premises of the minority schools could be used, and Section 56(2)(1) enabling the Government to prescribe conditions for receiving donations or contributions

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by the minority schools from the public, the rules relating to endowment, deposit of working/capital, and rules relating to admissions in the private schools, Rule 10 authorising withdrawal of recognition for non-compliance with the statutory provisions, Rule 11(1) providing for consequential suspension of payment of grant, Rules 12, 13 and 14 relating to School Committees, Rule 15(2)(i) requiring the School agency to enter into an agreement in the prescribed form, Rules 15(3) and 15(4) relating to appointment of teachers and basis of promotion, Rule 16(3) relating to School Committees and Rule 17(1) dealing with the prior approval of the competent authority, Rule 17(3) making the grant payable to the private schools dependent upon the correctness of the suspension of teachers as may be determined by the competent authority, and non-payment of grant to the substitute teachers, Rule 18 relating to punishment of the employees and appeal by them to the competent authority, and Rules 22 and 24 imposing restriction on transfer of properties of the denominations and requiring the permission of the competent authority for the same, are all attacked as being in infringement of the petitioners' fundamental right under Article 30(1).

The State refutes all the allegations of the petitioners in these writ petitions and say that the impugned provisions of the Act and the rules are all valid.

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Under Article 30(1), all minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice. The right guaranteed under this Article is a fundamental right available to religious or linguistic minorities. This right is among the group of rights relating to freedom of religion, freedom to manage religious affairs, freedom as to attendance at religious instructions or religious worship in certain educational institutions, cultural and educational rights. Article 25(1) ensures that all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion; but this right is subject to public order, morality and health, and to the other provisions of Part III of the Constitution. Though the right under Article 25(1) is of a large amplitude, it is, however, not absolute. The right is subject to public order, morality and health and the other provisions of the part clause (2) of the Article further abridges the scope of the right. Again, the freedom to manage religious affairs given by Article 26 to religious denomination or any section thereof is not absolute either, because it is subject to public order, morality and health again. But, the right under each of Articles 28 to 30 is not subjected to any limitation or restriction. The right guaranteed in Article 30(1) is in absolute terms, and, no abridgement of the substance of the right is, therefore, permissible. Unlike

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the freedom under Article 19, the right under Article 30(1) cannot even be subjected to reasonable restriction in public interest. So, the right of a religious or linguistic minority to make its own choice of educational institutions, establish and administer the same, is of the widest amplitude, and is untrammelled. The test being what is good or is in the interest of the religious or linguistic minority, no other criterion like reasonableness or public interest can avail to abridge its scope and effect, for, otherwise the right will lose its purpose. The right is in two parts, (1) the right to establish; and (2) the right to administer. The right to establish an educational institution is secured to all religious or linguistic minorities, which include not merely religious or linguistic minority communities, but also individuals belonging to either of them. A person belonging to a religious or a linguistic minority is given, as in the case of the religious or linguistic minority community, unbridled and absolute right to establish any institution of his choice, which means that any restriction which will have the effect of abridging that right will be unconstitutional. Likewise, the right to administer is free from any limitation, so that a religious or linguistic minority community or an individual belonging to either, has the whole field of administration of the institution open, uninhibited by any interference. A religious or linguistic minority, including an individual belonging to it, has unfettered right to found any

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educational institution of its or his choice, and administer it according to its or his wish and discretion. But, as administration does not mean maladministration, any regulation which will engender proper administration will be permissible. So also will be permissible any regulation, procedural in character, which is designed to further the objects of the right and which does not in fact and substance, eat into the vitals of the right. While regulation of the right, therefore, is not open to objection, any restriction in the sense that it has the effect of abridging the right or making inroad into its substance, call it regulation or restriction, is unconstitutional. That, in our opinion, is the ambit and effect of the right under Article 30(1), and as laid down in the Supreme Court cases from Kerala Education Bill (1) to St.Xaviers College - vs - State of Gujarat (2). While there is this uniformity of opinion including in the recent decision of the Supreme Court in The Gandhi Faizeam College, Saharanpur - vs - University of Agra (3) as to the scope and effect of Article 30(1) as expounded in the different cases, the problem in each case has presented seemingly differing approaches, or points of view or yardstick in testing the validity of an allegedly offending statutory provision or rule, or regulation or

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- (1) 1959 S.C.R. 995
(2) A.I.R. 1974 Supreme Court 1389
(3) Civil Appeal No. 1611 of 1969

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administrative order vis-a-vis the impact of it on the fundamental right . But we should think that throughout the various decisions of the Supreme Court, as we see them, the absolute character of the right has always been kept in view, and any erosion on its substance has not been permitted. Most of the earlier decisions of the Supreme Court were reviewed by a larger Bench of the same Court in St.Xavier College -vs- State of Gujarat(2).

We shall now take up Chapter IV relating to Constitution of School Committee and its functions which cover the field of management of the school, and discipline of the staff therein and pupils. Both are undoubtedly part of the right to administer a minority institution. The chapter consists of Sections 15 to 18. We have already set out earlier their substance . The effect of these provisions is this: The Educational Agency, which means with reference to a minority school, a person who, or body of persons which, has established and is administering such a school is to be replaced by a School Committee which shall include the Headmaster and the senior most teachers employed in the school. The Headmaster shall be Ex-Officio member. Two seniormost teachers, if the strength of the teachers in the school is less than twenty, and three seniormost teachers, if the strength of teachers

(2) A.I.R. 1974 Supreme Court 1389

is twenty and more, shall be nominated by the Educational Agency as members of the Committee, as it does its other nominees on the Committee. The Educational Agency has also been left free to appoint the President and Secretary out of its representatives. But, if the Education Agency desires to change the President, or the Secretary, it can do so only with the prior approval of the District Educational Officer, the competent authority in this respect. Rules 12 and 13 which provide for ~~the~~ power to carry on the general administration of the private school, to appoint teachers and other employees, fix their pay and allowances and define their duties and conditions of service and to take disciplinary action against teachers and other employees of the school. On the top of this, the Educational Agency shall, by law, be bound by anything done by the School Committee in the discharge of its functions, and to crown it all, any decision of the committee within its jurisdiction shall be deemed to be the decision or action taken by the Educational Agency. This, in our opinion, is a total invasion of the fundamental right of the Educational Agency of a minority school to administer it. The general administration, appointment of teachers and other employees, fixation of pay and allowances and defining the duties of the employees and the conditions of their service and the power to take disciplinary action against teachers and other employees of the school without any doubt whatsoever, belonged to the sphere of

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administration and the right to administer the school. When these matters are taken away from the purview of the Educational Agency, it cannot, in our opinion, be denied that to that extent the provisions in Chapter IV and the related rules deprive the founders of a minority school of their right to administer the school, and the position is made worse when the Educational Agency is directed to be bound by anything done by the School Committee in the discharge of its functions when in fact any action or decision of the school committee within its jurisdiction shall be deemed to be the decision or action taken by the Educational Agency. In our opinion, Sections 15 to 18 and Rules 12 to 14 which have such effect of depriving the founder of the minority school of its or his right to administer the school are in flagrant violation of Article 30(1). This view receives support from State of Kerala -vs- Mother Provincial (4). There the Kerala University Act, 1969 provided for Constitution of a Governing Body for a group of private Colleges, and a Managing Council for a College which are all minority institutions to be set up by the Educational Agency, by which is meant the founder. The Governing Body should consist of eleven members, who are the Principal of the private college, the manager of the private college, a person nominated by the University, a person nominated by the Government, a person elected in

(4) A.I.R. 1970 Supreme Court 2079.

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accordance with such procedure as may be prescribed by the Statutes of the University from among themselves by the permanent teachers of the private college, and not more than six persons nominated by the Educational Agency. The Managing Council should consist of the Principal in rotation from private colleges, manager of the private colleges, the nominees of the University and the Government as above described, two elected representatives of the teachers, and not more than 15 members nominated by the Educational Agency. Thus, a body quite apart from the Educational Agency was set up. The Act further provided that it should be the duty of the Governing Body or the Managing Council as the case may be, to administer the College or Colleges in accordance with the provisions of the Act and the Statutes. The provisions relating to such a set-up were held to be ultra vires by the Kerala High Court, as they took away from the founders the right to administer their own institution. The Supreme Court in approving this view observed:

"It is obvious that after the election of the governing body or the managing council the founders or even the community has no hand in the administration. The two bodies are vested with the complete administration of the institutions. These bodies have a personality distinct from the educational

~~agency or the corporate management~~ They
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agency or the corporate management. They are not answerable to the founders in the matter of administration. Their powers and functions are determined by the University laws and even the removal of the members is to be governed by the Statutes of the University. Sub-section (2), (4), (5), and (6) clearly vested the hands of the two bodies with mandates from the University."

It was argued for the State of Kerala in an attempt to save the provisions that the nominees of the Educational Agencies or the corporate management had the controlling voice, and that the defect, if any, must be found in the Statutes, Ordinances, Regulations, Bye-laws and Orders of the University and not in the provisions of the impugned Act. In rejecting that contention, the Supreme Court stated:

"Both these arguments are not acceptable to us. The Constitution contemplates the administration to be in the hands of the particular community. However desirable it might be to associate nominated members of the kind mentioned in Sections 48 and 49 with other members of the governing body or the managing counsel nominees,

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it is obvious that their voice must play a considerable part in management. Situations might be conceived when they may have a preponderation voice. In any event, the administration goes to a distinct corporate body which is in no way answerable to the educational agency or the corporate management. The founders have no say in the selection of the members nominated or selected except those to be nominated by them."

is is precisely the position of the above provisions impugned before us too. But, for the State, strong reliance has been placed on the Gandhi Faizeam College, Saharanpur -vs- University of Agra (3). We think that this decision is not of assistance to the State. The Gandhi Faizeam College at Saharanpur, was established by the members of the Muslim community, a minority community. In August 1964 the Management of the College made an application to the University of Agra for permission to start teaching in courses of study including sociology sanskrit, arabic, military studies, drawing and painting. The University insisted that as a condition for recognition of the additional subjects as courses of study, the managing Committee of the College must be reconstituted

(3) Civil Appeal No. 1611 of 1969

in conformity with Statute 14-A by including the Principal and the seniormost member of the staff, in it. At one stage the Management agreed to this, but later retracted. The majority opinion held that Statute 14-A framed by the University of Agra did not abridge the fundamental right guaranteed under Article 30(1). That Statute was to the effect that each college, already affiliated or when affiliated, which was not maintained exclusively by Government, must be under the Management of a regular constituted Governing Body on which the staff of the college should be represented by the Principal of the College, and at least one representative of the teachers of the college to be appointed by rotation in order of seniority determined by length of service in the college, who should hold office for one academic year. It may be seen at once that the Statute did not substitute the Managing Committee of the College set up by the founding body by another body. The minority college in that case was administered by a three-tier body organised intra-murally by the Society consisting of the minority community. There was a General Council with plenary powers, then the Governing Body which had the powers to effectively formulate policies, and lastly the Managing Committee in charge of the day-to-day administration. Under the relevant rules of the Society, these three organs were vested with the controlling power of administration of the college. The Society was autonomous and its organs

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administered the institution. The majority opinion held that the Managing Committee was not deprived of its administrative powers by the induction of the Principal and one representative of the teachers of the College. Notwithstanding their induction, the Managing Committee itself was subject to the hierarchical control of the Governing Body and the General Council of the Society, and that in the circumstances, even assuming that the Principal and the Teacher in the Managing Committee were outsiders, which was not the case, they were two innocuous insiders who could not tilt the scales. In other words, the majority view was that Statute 14-A made no inroad whatever into the substance of the minority community's right to manage the College. This is what the majority learned judge said :

"The features of the Urga University Act vis a vis the minority institutions are conspicuously different and leave almost unaffected the total integrity of the administration by the religious group, save in the minimal inclusion of two internal entities, name the Principal of their own choice and the seniormost lecturer independently appointed by them.

We are satisfied that the regulatory clause challenged before us improve the administration and do not inhibit its autonomy and are therefore good and valid."

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It may be seen that this case bears no analogy whatever or principle, or on facts, to the objections and the impugned provisions of the Act we are concerned with. These matters do not indicate the grounds on which such approval can be refused. The Secretary of the School Committee shall function for and on behalf of the School Committee as well as the Educational Agency, but shall not interfere in the internal administration of the school like admissions, examinations, promotion of pupils and other academic matters which shall be the exclusive responsibility of the Headmaster. The School Committee shall meet at such times and places and shall observe such rules of procedure in regard to transaction of business at its meetings as may be prescribed. All questions at the meeting of the School Committee shall be decided by a majority of votes, the President having a casting vote in the case of a tie. The School Committee is vested with the power to carry on the general administration of the school excluding the properties and funds of the school, to appoint teachers, and other employees of the school, fix their pay and allowances and define their duties and conditions of service, and to take disciplinary action against teachers and other employees of the school. The Educational Agency shall be bound by anything done by the School Committee in the discharge of the functions of the Committee. Any decisions or action taken by the School Committee in respect of any matter over which the School Committee

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has jurisdiction, shall be deemed to be the decision of action taken by the Educational Agency. All this means that the founder, be it an individual who, or which has established and is administering the minority school is substituted by a School Committee with its composition as mentioned above and deprived of its power to enforce discipline, including imposition of punishment, is necessarily included in the right to administer the minority school. But Section 22 enjoins that no teacher or other employee in a private school shall be dismissed, removed, or reduced in rank, except with the prior approval of the competent authority. The competent authority is empowered to deny approval if it is not satisfied that there are adequate and reasonable grounds for the proposed punishment. The provision goes further to lay down that no teacher or other employee in a private school shall be placed under suspension, except when an inquiry into the gross misconduct within the meaning of the code of Conduct prescribed under subsection (1) of Section 21, of such teacher or employee is contemplated. If there is such a suspension, it shall remain in force for not more than two months from the date of suspension, and if the inquiry is not over by that time, the teacher or employee shall, without prejudice to the inquiry be deemed to have been restored as teacher or other employee. Appeals to the prescribed competent authority, and a second appeal to a Tribunal from the orders of dismissal, removal

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or reduction in rank have been provided by Sections 23 and 24. A Code of Conduct for the teachers and employees has been prescribed under Section 21 read with Rule 16(1) and Annexure II. But sub-section (2) of Section 21 gives power to the School Committee to define the standards of conduct to be observed by teachers and other employees in a private school not being inconsistent with the Code in Annexure II. Though power to prescribe a Code of Conduct also belonged to the right to administer a minority institution, we can see no objection to the code of conduct in Annexure II. But the power given to the school committee to define standards of conduct as it seems to us, is an inroad into the founder's right to administer such institution. We are of opinion that sub-section (2) of Section 21, sections 22 to 25 as also Rules 17 and 18 are in abrogation of the right to administer a minority school, and violate Article 30(1). So also Section 26, we think, offends Article 30(1) which provides for absorption by a private school of a teacher or other employee retrenched elsewhere.

Before we pass on in holding Sections 22 to 25 as violative of Article 30(1) in their application to a minority institution, we derive support from STATE OF KERALA vs MOTHER PROVICIAL (A.I.R. 1970 Supreme Court 2079). The Kerala University Act, by Section 56(2) provided that no teacher of a private college should be dismissed, removed, or reduced in rank by the Governing Body, or Managing Council

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without the previous sanction of the Vice-Chancellor, or placed under suspension by the Governing Body or Managing Council for a continuous period exceeding 15 days without such previous sanction. The section also provided for an appeal for the aggrieved teacher against disciplinary action taken to the Syndicate. The Supreme Court held:

"These provisions clearly take away the disciplinary action from the governing body and the managing council and confer it upon the University."

Reference was made at the Supreme Court for the State of Kerala, to passages from the Report of the Education Commission in which the Commission had made suggestions regarding the conditions of service of the teaching staff in the Universities and the colleges and standards of teaching and also to passages in the Report of the Education Commission on the status of teachers which made suggestions for improving the teaching methods and standards, and it was argued that what had been done by the Kerala University Act was to implement those suggestions. The learned Advocate-General for the State of Tamil Nadu has reiterated this before us. The Supreme Court repelled the contention and said:

"We have no doubt that the provisions of the Act were made bona fide and in the interest of education, but unfortunately

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they do affect the administration of these institutions and rob the founders of that right which the Constitution desires should be theirs. The provisions, even if salutary cannot stand in the face of the Constitutional guarantee."

We respectfully adopt this view.

Chapter III which consists of Sections 11 to 14 deals with recognition of private schools including minority schools, withdrawal of recognition and its effect, and payment of grant. Rules 9 to 11 are related to the sections. To get recognition of a minority school is not part of the fundamental right under Article 30(1). But non-recognition involves serious consequence, namely any minority school without recognition is not eligible to receive any grant or other financial assistance from the Government, or even prepare, train or guide pupils for appearing at any examination conducted by, or under the authority of, the Government. In order to get recognition any private school which applies for it should satisfy the competent authority that it complies with the provisions of the Act and the Rules, as well as the prescribed conditions. Obviously, a private school cannot give the satisfaction and get recognition, except by complying with the provisions of the Act, the rules and the prescribed conditions and thus losing its fundamental right. Though to get recognition is not a fundamental right, insistence upon a minority school complying with the provisions of the Act,

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rules and the prescribed conditions as a condition for getting recognition is an inroad into the minority's right to administer its institutions. Section 14(2) says that the Government may withhold permanently, or for any specified period, the whole or part of any grant in respect of a private school which does not comply with any of the provisions of the Act or any rules made or directions issued thereunder in so far as such provisions, rules or directions are applicable to such private school, or in respect of which the pay and allowances payable to any teacher or other person employed in such private school are not paid to such teacher or other person in accordance with the provisions of the Act, or the rules made thereunder, or which contravenes or fails to comply with any such conditions as may be prescribed. Here again, insistence by the statutory provision to comply with the provisions, rules made thereunder or directions given by the competent authority which will abridge the substance of the fundamental right under Article 30(1) as a condition precedent to disbursement of grant, cannot also be upheld as valid. In our view, therefore, clause (b) of sub-section (i) of Section 11, and Sections 12 to 14 and the related rules 9 to 11 in their application to minority schools, are unenforceable against such minority schools on account of their violation of Article 30(1) as a condition precedent to disbursement of

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grant, cannot also be upheld as valid. In our view, and therefore, clause (b) of sub-section (1) of Section 11, and Section 12 to 14, and the related rules 9 to 11 in their application to minority schools; are unenforceable against such minority schools on account of their violation of Article 30(1).

Section 31 places restriction on alienation of property of a private school. It says that notwithstanding anything contained in any other law for the time being in force or in any deed, document or instrument having effect by virtue of such other law, no property of a private school, except with the previous permission in writing of the competent authority be transferred by way of sale, exchange, mortgage, charge, pledge, lease, gift or any other manner whatsoever, and that if any such property is transferred without such permission, the transferer shall be null and void. The competent authority may grant the permission if the transfer is made in furtherance of the purposes of the private school, or of similar purposes approved by the competent authority. Assets resulting from the transfer are to be wholly utilised in furtherance of the purposes of the school, or for the purposes approved by the competent authority. The competent authority while granting permission may impose such conditions as it deems fit to ensure that such assets are wholly utilised in furtherance of such purposes, though a contravention of any such condition shall not invalidate the transfer. This

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restriction on alienation applies both to movable property of not less than such value as may be prescribed, and such immovable property as may be specified in the rules made in that behalf Rule 24 directs that funds of the School should be utilised for bona fide purposes connected with the school only with the prior permission of the District Educational Officer concerned. The effect of this restraint on the right to administer minority schools is obvious, especially where the Educational Agency has established numerous schools and colleges, owns property in common for all of them, and utilises fund for their purposes from a central source, as in some of these cases before us. Also, to ask for prior permission of the competent authority for utilisation of funds for bonafide purposes connected with the school involves a blanket power to the competent authority, which seriously affects the right to administer minority institutions. Rule 23 forbides, among other things, collection of donation of any kind, either from the pupils or parents or from the public, except with the prior permission of the competent authroity. We are of opinion that this inhibition does not cover voluntary donations given by pupils, parents or members of the public. But, if the rule inhibits even such voluntary donations, we think that it infringes the right of the minority community to administer its institutions by making voluntary donations for their support. Sub section (2) of Section 33 directs that a private school shall invest or deposit its funds only in

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certain banking institutions or in the kind of securities mentioned therein. The right to administer a minority institution includes also the right to administer its funds which means that the minority institution must have the liberty to invest the moneys in whichever way it thinks fit, and its freedom to invest or deposit in whichever way it would think safe or proper cannot be infringed upon. We are of opinion, therefore, that Section 31 in its entirety, section 32 and Rule 23 in so far as they relate to receipt of voluntary donations, and Section 33 as well as rule 24 in so far as they relate to minority institutions are in contravention of Article 30(1).

Under Section 8(1)(a) whenever there is any change in the constitution of the Educational Agency, that Agency shall apply to the competent authority for approval of such change. The petitioners contented that this provision also violates Article 30(1). We accept this contention. This is because the fundamental right under Article 30(1) includes also the right to establish a minority institution. Such a right should be untrammelled, and its exercise should require the approval of no one. Change in the constitution of the Educational Agency is part of, and is inherent in the right to establish a minority institution. In our opinion, therefore, Section 8(1)(a) and Rule 7 in so far as they are made applicable to minority institutions are violative of the fundamental right, and to that extent their validity cannot be upheld.

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As to sections 39 and 40, we can see no objection to them, except that in respect of minority institutions the failure to comply with any directions under sub-section (4) of Section 39 will have no legal consequence. To the extent we have held the provisions of the Act and the rules made thereunder cannot be applied to minority institutions, to that extent the scope of sections 41, 42, 43, 44 and 45 will stand restricted.

We have already dealt with the topic of recognition and said that though to get recognition is not a fundamental right, in view of the consequences flowing from non-conferment of recognition, exercise of the fundamental right under Article 30(1) will be affected. Sub Rule (2) of Rule 9 prescribes certain conditions to be satisfied for the purpose of recognition. Clause (a) seems to be objectionable, and so too clause (b). As regards clause (c) different categories of schools are required to deposit each the amount mentioned in the clause as endowment. We are of opinion that the State, under the guise of Regulations, cannot prescribe stringent conditions as a condition precedent for recognition. We take it that the endowment is called for in order to ensure the financial stability of the school, and its running. But, where a minority institution, as in the case of The Tirunelveli Diocese of the Church of South India, in W.I.No. 294 of 1975, all the properties and funds, huge as they are, are owned by the Church which is the founder of the several colleges and innumerable schools, it will be not only an unnecessary

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condition, but will be too, stringent to require every college and school in such a case to create an endowment, and thus impose a burden so as to make the exercise of the fundamental right under Article 30(1), arduous and even impossible in some cases without upsetting the existing sound set up which ensures by itself, the financial stability for all the schools, and colleges and other institutions managed by the minority community or founder. More so, to call upon each institution to create an endowment in the name of the school and in the particular shape envisaged by clause (c) of sub rule (2) of Rule 9. The rule says that Trusts or Society or Corporate body which run more than one private school shall have the option to create fifty per cent of the endowment in cash and fifty per cent in the form of immovable property other than school building. Here again, the endowment is required to be in the name of the school and conveyed to the school through proper legal document. The rule also says that the immovable property endowed to the school shall not be sold, mortgaged, exchanged or gifted or alienated without the prior approval of the Director of School Education, and that the entire income derived from the endowed immovable property shall be brought to the general accounts of the school. But the fact is that the several colleges and schools founded and administered by The Tirunelveli Diocese of the Church of South India, do not each

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to be an infringement of the fundamental right of the Society as a minority to administer the properties and funds belonging to it, in its own way and for the benefit of each school or college or other institution. If the whole object of asking for an endowment to be created in the name of the school is to ensure for its financial stability, but such a stability is obviously guaranteed by a different set up by which the entire properties are owned by the corporate body, the Society, which manages and administers the various institutions which it has founded, we do not see why such a set up should be disturbed and the Society as the corporate body be interfered with in its administration and conduct of its minority institutions in its own way. Nor do we find any necessity by way of regulation to call upon the minority institution to deposit a sum equivalent to a minimum of one month's salary of the staff employed in such school to serve as a working capital of that school. The object of this appears to be as seen from rule 9 itself, that if there was delay in the sanction of grant by the Educational Department, the deposit may serve as a working capital and the same may be drawn for disbursement of the salary to the members of the staff. We are inclined to think that this is also a strain and financial burden on a minority institution which will cripple the exercise, by the minority founder of its fundamental right under Article 30(1). Clause (d) of sub-rule (2) of Rule 9 is to the effect that if the Educational Agency pays more than the scales and rates

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ordered by Government, such excess shall be met by the Educational Agency from its own funds and shall not be debited to the school fund, and for purposes of grants such higher scale or rate shall not be taken into consideration. We can understand the last part of the rule that such excess shall not be taken into account for calculating the scale or rate of grants. But, we are unable to see any justification for the other part of the rule as a condition to recognition. If a minority community or a minority founder, in the interests of the minority institution, desires to pay more than the scales and rates ordered by Government, it will be an undue restriction of its fundamental right to manage the institution if the excess is to be borne by the community and not the school. As to donations, we have already observed that voluntary donations are not inhibited by the rules. Clause (e) of sub rule (2) of Rule 9 only forbids collection of donations or fees compulsorily, other than those permitted by the competent authority. This clause has no application to voluntary donations and minority institutions will be free to accept them. The clause is only confined to compulsory collection of fees and donations, and that being so, the clause by itself seems to be unobjectionable. Clause (f) of sub rule (2) of Rule 9 prescribes another condition precedent to recognition which is that the Educational Agency shall carry out the instructions issued by the Government from time to time in the public interest to ensure admission in the schools run by them of pupils belonging to the socially and educationally backward classes of citizens and to safeguard the interests of the linguistic minorities. This, we think, is not a valid condition as it pla

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a serious restriction on the freedom of the minority institution to make admissions from the stand point of conserving and promoting the interests of the minority concerned. Public interest is not the test. This is what Director of School Education Vs. Rev. Brother G. Arogiasany (1971 (1) M.L.J. 325) to *

*which one of us was a party, said:

"It is true the impugned order is conceived in public interest to ensure proper standards in the matter of admission to basic and non-basic training schools. That is good by itself. But when applied to a minority institution, its effect is not to its benefit from its own point of view. That is forbidden by Article 30(1).

We are unable to uphold the validity of this clause in its application to minority institutions. Clauses (g), (h) and (i) of sub-rule (2) of Rule 9 also cannot be applied legitimately to minority institutions because they too involve infringement of the right under Article 30(1). Clause (j) of the sub-rule to the extent it says that the premises should be used for the purposes of the minority institution would be unobjectionable. But, it cannot be insisted that use of the minority school building for other purposes can only be made on the specific permission of the Chief Education Officer, as it would infringe on the Fundamental right. Sub-rule (4) of Rule 9 in view of what we have said above, cannot also be applied to minority institutions in granting recognition. Rule 10 also can be applied to a minority school only consistent with what we have already stated. That is to say, recognition cannot be withdrawn on the ground that the minority institution has failed to comply

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with the provisions of the Act, or the conditions stipulated which we have held to be inapplicable to minority institutions.

To sum up, we declare as in applicable to minority institutions Sections 8(1)(a), 11(1)(b), 12(1), 14 to 18, 21(2), to 26, 31 to 33, 39(4), 41 to 45 and Rules 7, 9 except clauses (e) and (k) of sub rule (2), Rules 10 to 14, 16 to 18 and 22 to 24.

In W.I.No. 1365 of 1975 Sir M.Ct. Muthiah Chettiar High School is claimed to be a minority institution. The Trustee and Correspondent of the school who has sworn to an affidavit in support of the petition, mentions these facts: Sri M.Ct.M. Chidambaram Chettiar founded in January 1939 Sir M. Ct. Muthiah Chettiar High School, in Iurasawalkam. One, Calavala Ethirajamma, the widow of Calavala Ramanujam Chettiar who was in management of C.R.C. School, Madras, approached Sir M.Ct.Muthiah Chettiar, the father of the founder with a request to take over and maintain the school and subsidise the C.R.C. High School. Sir M.Ct.Muthiah Chettiar accepted the invitation to assume the administration and maintenance of the school. During his life time he contributed funds for the maintenance of the school. He was desirous of formally assuming charge of the school, to rename it and provide an endowment for purchase or acquisition of the site for the school and for construction of the building. Before he could carry out his wishes, he passed away, and his son Sri M.Ct.

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M. Chidambaram Chettiar, in order to carry out the intentions of his father, created a deed of Trust on January 29, 1930. By a deed of Transfer dated August 16, 1929 all the properties of the C.R. C. High School were transferred to the founder. But the deed of Transfer of the properties which vested in the founder by virtue of the Deed of Trust dated August 16, 1929 became vested and stood assigned to the Trustees of Sir M.Ct.Muthiah Chettiar School endowment. A trust Board consisting of the founder, Sri Chidambaram Chettiar, K.V. Al.DM.Alagappa Chettiar, F.Masilamani Iillai, K.S. Rajagopala Iyengar and Tranatharthihara Iyer was created. The school was renamed as Sir M.Ct.Muthiah Chettiar High School.

The founder placed in the SRMM CTM Firm a sum of rupees one lakh in the joint names of Trustees constituted under the Trust Deed dated January 29, 1930. Under the terms of the Trust the founder was to be Trustee for life and President of the Board. Thereafter, the senior male representative in the line of decent in the family of the founder was to be a Trustee and by virtue of such succession be President of the Board. There are other clauses in the Trust Deed which we need not refer to. The school is administered and managed by a Board of Trustees now consisting of Sri M.Ct. Muthiah Sri M.Ct.lathachi, Sri C.Ramakrishna, Sri Ranganatha Sastri and Sri K.Parthasarathi, as per the terms of the Trust Deed. The school has been recognised by the Educational Department and has been receiving grants and aid ever since it was established. The school has a strength of 2368 boys and 69

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qualified teachers, has three media of instructions in Tamil Telugu and English. Hindi is also one of the languages that is taught.

On the above facts there is no difficulty in holding that the school is a private school. But it is not possible to say that it is a minority school within the meaning of the Act. Reference is made to the fact that the founder belonged to the Nattukottai Nagarathar (Chettiar) community and it is claimed that this community is a minority within the meaning of Article 30(1). But, what that Article speaks of is a minority based on language or religion. The founder's language or that of his community is Tamil, and the religion is Hinduism, they being Saivites. Hardly, therefore, can the founder or his community be described as a religious or linguistic minority. As a matter of fact, in the petition in W.P.No. 1365 of 1975 the validity of the Act is attacked mainly on the basis of Articles 14, 19 and 31, though there is also a passing reference to Article 30. Alternatively it was argued for the petitioner that the school is a denominational institution protected by Article 26. We have no evidence before us to uphold this contention. In our opinion whether the school is a minority school within the meaning of Article 30, or a denominational institution within the meaning of Article 26 will, unless admitted, have to be decided in the light of proper evidence to be recorded, and as such, a suit will be a more satisfactory remedy for that purpose.

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In W.I.Nos. 4478 of 1974, and ~~XXX~~ 294 of 1975, the petitioners are undoubtedly minority institutions within the meaning of Article 30(1) of the Constitution. These petitions are allowed with costs in each. Counsel's fee in each Rs.500/- W.I. Nos.1364, 1365 and 1750 of 1975 are, except for the declaration we have given of the inapplicability of the provisions mentioned by us to minority institutions, are dismissed, but with no costs. In the other cases, wherever the petitioners' character as minority institutions are not disputed, they are allowed, but with no costs; and the other petitions in which the private institutions are not admitted to be minority institutions, are except for the declaration aforesaid, all dismissed, but with no costs. Three months' time is granted for institution of suits in all the cases where the character of the institution is in question as to whether it is a linguistic or a religious minority, or whether it is a denominational school.

ILD. K.V.
17-12-1975

ILD. S.N.R.
17-12-1975

Sd/- I. Viswanathan
Asst.Registrar(I)
High Court, Madras.

/True copy/

SECTION OFFICER

N.B.:- Detailed cause - title and
prayer in other writ petitions disposed of
along with these writ petitions will be
sent later.

Records (if any) in all the
writ petitions will also be despatched
later.

To

1. The Secretary to Government of Tamil Nadu,
Education Department, Fort St. George,
MADRAS - 9.

WRIT PETITION No. 4478 of 1974 and 226, 294, 295, 296,
348, 377, 538, 603, 660, 720, 721, 733, 743, 837, 884,
797, 360, 937, 976, 977, 978, 979, 980, 830, 831, 832,
833, 834, 878, 892, 925, 957, 961, 962, 967, 968, 969,
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3626, 3648, 3661, 3662, 3752, 3756, 3797, 3807, ~~3816~~,
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1345, 1418, 1419, 1809, 1839, 2175, 2708, 3732, 3891,
3948, 4033, 4261, 4262, 1024, 1335, 2071, 2072, 2073

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2074, 2075, 3194, 4510, 4520, 4537, 4667, 4668, 4669,
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4767, 4775, 4790, 4792, 4793, 4797, 4799, 4804, 4807,
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4927, 4937, 4945, 4955, 4968, 4969, 4971, 4983,
4998, 5002, 5046, 5050, 5061, 5062, 5072, 5081,
5082, 5083, 5099, 5100, 5147, 5148, 5149, 5252, 860,
3030, 3347, and 3636 of 1975.

2. The Secretary to Government of Tamil Nadu,
Law Department, Fort St. George,
MADRAS-9.

WRIT PETITION No. 4478 of 1974 and Writ petitions Nos.
294, 295, 296, 797, 878, 1040, 1041, 1042, 1043,
1044, 1045, 1065, 1066, 1067, 1068, 1069, 1123,
1124, 1125, 1126, 1127, 1128, 1149, 1208, 1217,
1284, 1326, 1226, 1360, 1390, 1391, 1392, 1431,
1432, 1575, 2267, 2722, 3032, 3125, 3662, 403,
421, 482, 522, 524, 566, 568, 679, 718, 780, 806
and 2175 of 1975.

3. The Director of School Education,
MADRAS--6.

WRIT PETITIONS Nos. 860, 1149, 1180, 1208, 1361,
1310, 1311, 1312, 1360, 1575, 1640, 1641, 1882, 1959,
2204, 2205, 2267, 2588, 3040, 3041, 3662, 504, 701,
3732, 4667 and 860 of 1975.

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4. The Director of School Education,
Nungambakkam, Madras-600 034.

WRIT PETITIONS Nos. 935, 1122, 1399, 1998, 2032,
3114, 3115, 3282, 3311, 3314, 897, 898, 906, 1051
and 4945 or 1975.

5. The Joint Director of School Education (Secondary),
Old College Road, Madras-6.

WRIT PETITION Nos. 4478, of 1974 and Writ petitions Nos.
1284, 1326, 1226, 1755, 2006, 2722, 3422, and 701
of 1975.

6. The Joint Director of School Education (Secondary),
Nungambakkam, Madras-34.

WRIT PETITIONS Nos. 294, 295, 296, 538, 797, 878,
1040, 1041, 1042, 1043, 1044, 1045, 1065, 1066,
1068, 1069, 1070, 1071, 1123, 1124, 1125, 126,
1128, 1160, 1163, 1166, 1217, 1390, 1391, 1392,
1432, 1908, 2541, 3032, 3125, 403, 421, 482, 522,
524, 543, 544, 545, 566, 568, 606, 607, 608, 609,
679, 718, 780, 806, and 2175 of 1975.

7. The District Educational Officer,
Madras North, Madras-7.

WRIT PETITIONS Nos. 1365, 1319, 1330, 1500, 1503, 1867,
2557, 2780, and 786 of 1975.

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2266, 2267, 2269, 2278, 2279, 2280, 2281, 2282,
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2074, 2075, 3194, 4510, 4520, 4537, 4667, 4668, 4669,
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5082, 5083, 5099, 5100, 5147, 5148, 5149, 5252, 860,
3030, 3347, and 3636 of 1975.

2. The Secretary to Government of Tamil Nadu,
Law Department, Fort St. George,
MADRAS-9.

WRIT PETITION No. 4478 of 1974 and Writ petitions Nos.
294, 295, 296, 797, 878, 1040, 1041, 1042, 1043,
1044, 1045, 1065, 1066, 1067, 1068, 1069, 1123,
1124, 1125, 1126, 1127, 1128, 1149, 1208, 1217,
1284, 1326, 1226, 1360, 1390, 1391, 1392, 1431,
1432, 1575, 2267, 2722, 3032, 3125, 3662, 403,
421, 482, 522, 524, 566, 568, 679, 718, 780, 806
and 2175 of 1975.

3. The Director of School Education,
MADRAS--6.

WRIT PETITIONS Nos. 860, 1149, 1180, 1208, 1361,
1310, 1311, 1312, 1360, 1575, 1640, 1641, 1882, 1959,
2204, 2205, 2267, 2588, 3040, 3041, 3662, 504, 701,
3732, 4667 and 860 of 1975.

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4. The Director of School Education,
Nungambakkam, Madras-600 034.

WRIT PETITIONS Nos. 935, 1122, 1399, 1998, 2032,
3114, 3115, 3282, 3311, 3314, 897, 898, 906, 1051
and 4945 or 1975.

5. The Joint Director of School Education (Secondary),
Old College Road, Madras-6.

WRIT PETITION Nos. 4478, of 1974 and Writ petitions Nos.
1284, 1326, 1226, 1755, 2006, 2722, 3422, and 701
of 1975.

6. The Joint Director of School Education (Secondary),
Nungambakkam, Madras-34.

WRIT PETITIONS Nos. 294, 295, 296, 538, 797, 878,
1040, 1041, 1042, 1043, 1044, 1045, 1065, 1066,
1068, 1069, 1070, 1071, 1123, 1124, 1125, 126,
1128, 1160, 1163, 1166, 1217, 1390, 1391, 1392,
1432, 1908, 2541, 3032, 3125, 403, 421, 482, 522,
524, 543, 544, 545, 566, 568, 606, 607, 608, 609,
679, 718, 780, 806, and 2175 of 1975.

7. The District Educational Officer,
Madras North, Madras-7.

WRIT PETITIONS Nos. 1365, 1319, 1330, 1500, 1503, 1867,
2557, 2780, and 786 of 1975.

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8. The District Educational Officer,
Madras South, Gandhi Ivari Road,
Egmore, Madras-8.

WRIT PETITIONS Nos. 1216, 1432, 1644, 1763, 2310,
2670, 2671, 2672, 2673, 2674, 2675, 2676, 2989,
3135, 3141, 3351, 403, 932 and 3948 of 1975.

9. The Inspectress of Girls Schools,
Madras Circle, Madras.

WRIT PETITIONS Nos. 1364, 1330, 1431, 2670, 2673, 2675, 893,
and 4693 of 1975.

10. The District Educational Officer,
Saidapet, Madras-15.

WRIT PETITIONS Nos. 1338, 1339, 1340, 1527, 1655, 3221,
3513, 3732, and 5072 of 1975.

11. The Chief Educational Officer,
Saidapet, Madras.

WRIT PETITIONS Nos. 1882, 2204, 2205, 3040, 3041
and 4667 of 1975.

12. The Deputy Inspector of Schools,
Villivakkam Range, Ambattur,
Chingleput District.

WRIT PETITION No. 2033 of 1975

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13. The District Educational Officer,
Kancheepuram, Chingleput District.

WRIT PETITIONS NOs. 2192, 2306, 3205, 3422 and
3756 of 1975.

14. The District Educational Officer,
Chingleput.

WRIT PETITIONS Nos. 1502, 1640, 1641, 2677, 2678,
2680, 3160 and 3165 of 1975.

15. The Inspectress of Girls Schools,
Chingleput Circle, Chingleput.

WRIT PETITIONS Nos. 2678 and 2679 of 1975.

16. The District Educational Officer,
Tiruppattur, North Arcot District.

WRIT PETITIONS Nos. 2708 and 2074 of 1975.

17. The District Educational Officer,
Salem, Salem District.

WRIT PETITIONS Nos. 4826, 5046 and 3636 of 1975.

18. The District Educational Officer,
Namakkal.

WRIT PETITION No. 3347 of 1975.

19. The District Educational Officer,
Cheyyar, North Arcot District.

WRIT PETITIONS Nos. 2794, 4669, 4792, 4842, 4885, 4886,
4898, 4998, 5147 and 5148 of 1975.

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20. The District Educational Officer,
Wandiwash, North Arcot District.

WRIT PETITION no. 4668 of 1975.

21. The District Educational Officer,
Vellore, North Arcot District.

WRIT PETITIONS Nos. 1168, 1180, 1298, 1738, 1914, 1916,
1917, 1918, 1919, 1920, 1921, 1922, 2014, 2016, 2017, 2020,
3116, 3816, 1063, 4792 and 4898 of 1975.

22. The Deputy Inspector of Schools,
Kaniyambadi Village, Vellore,
North Arcot District.

WRIT PETITIONS Nos. ~~XXXX~~ ²⁸⁹⁷ ~~XXV~~ of 1975

23. The District Educational Officer,
Tiruvannamalai, North Arcot District.

WRIT PETITIONS Nos. 1308 and 1357 of 1975.

24. The District Educational Officer,
Villupuram Education District,
South Arcot District.

WRIT PETITIONS Nos. 2802, 2803, 2804, 2818, 2925, 2969
and 3871 of 1975.

25. The District Educational Officer,
Vridhachalam, South Arcot District.

WRIT PETITIONS Nos. 884, 1409, 1411, 1415, 1417, 1461,
1462, 146 , 1465, 1467, 1618, 1619, 1620, 1621, 1622,
16 , 1624, 1631, 1667, 2531, 2532, 2533, 2534, 25

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2537, 2538, 2539, 2609, 2746, 2914, 2915, 2917, 2918, 2919, 2920, 3067, 3210, 3211, 3215, 3216, 3341, 3342, 3827, 3986 and 1839 of 1975.

26. The District Educational Officer,
Cuddalore, South Arcot District.

WRIT PETITIONS Nos. 1390, 1391, 1392, 1576, 1762, 2018, 2019, 2194, 2195, 2305, 2351, 2400, 2460, 2588, 2863, 3175, 3298, 3304, 3605, 3600, 1342, 1343, 1344, 1345, 4510 and 4754 of 1975.

27. The District Educational Officer,
Tindivanam, South Arcot District.

WRIT PETITIONS Nos. 1666 and 4955 of 1975.

28. The District Educational Officer,
Tollachi Education District,
Coimbatore District.

WRIT PETITION No. 2747 of 1975.

29. The District Educational Officer,
Coimbatore.

WRIT PETITIONS Nos. 2188, 3121, 3214 and 4733 of 1975.

30. The District Educational Officer,
Usilampatti, Madurai District.

WRIT PETITIONS Nos. 1189, 1435, and 2308 of 1975.

31. The District Educational Officer,
Dindigul Circle, Madurai.

WRIT PETITIONS Nos. 1852, 3142, 426, 3891 and 4262 of 1975.

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32. The Deputy Inspector of Schools,
Kallikudi Range, Thirumangalam,
Madurai District.

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WRIT PETITION No. ~~1778~~ of 1975

33. The District Educational Officer,
Terunkulam, Madurai District.

WRIT PETITION No. 1778 of 1975.

34. The District Educational Officer,
Ieriakulam, Madurai District.

WRIT PETITION Nos. 721, 733, 743, 957, 1040, ~~1041~~,
1042, 1043, 1044, 1045, 1046, 1067, 1068, 1069, 1123,
1124, 1125, 1126, 127, 128, 1181, 1184, 1185, 1186,
1188, 1207, 1250, 1251, 1253, 1257, 1396, 1469, 1949,
1950, 2432, 3797 and 1275 of 1975.

35. The Inspector of Girls's high school,
Madurai.

WRIT PETITIONS Nos. 934 and 1363 of 1975.

36. The District Educational Officer,
Madurai, Madurai District.

WRIT PETITIONS Nos. 226, 1033, 1081, 1182, 1183, 1187,
1248, 1249, 1252, 1254, 1255, 1256, 1258, 1259, 1301, 1505,
1961, 2503, 2518, 2990, 3155, 3156, 3166, 3179, 657, 700,
711, 712, 756, 763, 764, 822, 897, 898, 1048, 1049,
1419, 1809 and 4983 of 1975.

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37. The District Educational Officer,
Ramanathapuram Central at Madurai,
Railway Feeder Road, Madurai.

WRIT PETITIONS Nos. 1373, 1376, 1662, 1663, 1750,
2922 and 504 of 1975.

38. The District Educational Officer,
Iattukottai, Thanjavur District.

W.I. Nos. 2006, 3242, 3243 to 3246, 3340 and 3343/1975.

39. The District Educational Officer,
Mayuram, Thanjavur District.

W.I.No. 2944/75.

40. The District Educational Officer,
Nagapattinam.

W.I.Nos. 976, 977, 1235, 1292, 1316, 1317, 1395, 1489,
1490, 1756, 1910, 2118, 2759 to 2762, 3147 to 3149
and 3178/75.

41. The District Educational Officer,
Thanjavur.

W.I.Nos. 978 to 980 of 1975.

42. The District Educational Officer,
Musiri Taluk, Tiruchirapalli District.

W.I.Nos. 1296 and 1304 of 1975.

43. The District Educational Officer,
Lalgudi Educational District,
Tiruchirapalli District.

W.I.Nos. 2132, 2765, 3266 and 2071 to 2073 of 1975.

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44. The District Educational Officer,
Ariyalur, Tiruchirapalli Dist.

W.I.No. 3115 of 1975.

45. The District Educational Officer,
Tiruchi Education District,
Tiruchirapalli.

W.I.Nos. 1736, 1737, 1846, 2032, 2196, 2504, 3032,
3118, 3125, 3240, 3282, 2075 and 4070/75.

46. The Deputy Inspector of Schools,
East Range, Tiruchirapalli.

W.I.No. 4937/75.

47. The Deputy Inspector of Schools,
Kalakkad Range, Kalakkad Post,
Nanjuneri Taluk, Tirunelveli District.

W.I.Nos. 1222, 1261, 1262, 1597, 1931 and 870 of 1975.

48. The District Educational Officer,
Tirunelveli North, Koilpatti.

W.I.Nos. 837, 968, 1297, 1299, 1300, 1302, 1303, 1305
to 1307, 1309, 1425, 1410, 1412, to 1414, 1416, 1460,
1464, 1466, 1468, 1470, 1786, 1915, 2606, 3061, 3648,
889 and 890/1975.

49. The District Educational Officer,
Tiruchirapalli District.

W.I.No. 1283, 1295, 1386, to 1389, 1678, 1995, 2176,
2987, 3236 to 3238, 4016, 4033, 2755 and 3030 of 1975.

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50. The District Educational Officer,
Tirunelveli Central at Iolayamcottai.

W.I.No. 1223/1975.

51. The District Educational Officer,
Tirunelveli South, Iolayamcottai.

W.I.Nos. 1318, 1341, 1594 to 1596, 1874, 2152, 2417
and 2494 of 1975.

52. The District Educational Officer,
Tirunelveli East at Tuticorin.

W.I.No. 1226/1975.

53. The District Educational Officer,
Tirunelveli West at Tirunelveli.

W.I.No. 2986 and 2988/75.

54. The Deputy Inspector of Schools,
Ramanathapuram Range, Ramanathapuram.

W.I.Nos. 1037, 1064, 1593 and 3212 of 1975.

55. The District Educational Officer,
Devakottai Division, Devakottai Post,
Ramanathapuram District.

W.I.No. 1495, 1750, 2298, 2299 and 3900/75.

56. The District Educational Officer,
Virudhunagar, Ramanathapuram District.

W.I.Nos. 967, 969, 1147, 1148, 1346, to 1351, 1385,
1402, 1524, 1525, 1534, 1549, 1590, 1652, 1953,
891, 934, 963 and 1418 of 1975.

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57. The Deputy Inspector of Schools,
Ilayangudi Range, Ilayangudi,
Ramanathapuram District.

W.I. 1310 and 1312/75.

58. The Deputy Inspector of Schools,
Tirupallani Range, Tirupallani,
Ramanathapuram Taluk & District.

W.I. 1311, 1380 and 950/1975.

59. The Deputy Inspector of Schools,
Tiruvadana Range at R.S. Mangalam,
Ramanathapuram District.

W.I. 1495/75

60. The District Educational Officer,
Ramanathapuram at Ramanathapuram.

W.I. Nos. 1039, 1064, 1632, 1755, 1787, 1788, 1992,
2053 to 2069, 2257, 2489, 2509 to 2512, 2892, 228,
901, 907, 950, 970, 975 and 5050 of 1975.

61. The Deputy Inspector of Schools,
Ramanathapuram Range, Ramanathapuram.

W.I. Nos. 907 and ~~X~~ 975/75.

62. The District Educational Officer,
Tudukottai District.

W.I. Nos. 2693, 3508 and 4024/75.

63. The Deputy Inspector of Schools,
Tudukottai Range, Tudukottai.

W.I. 2900/75.

contd.....

64. The District Educational Officer,
Thakkalai, Kanyakumari District.

W.I. 1321, 2427 and 3593 of 1975.

65. The District Educational Officer,
Nagercoil, Kanyakumari District.

W.I. 74C/1975.

TWO (2) C.C. to the Government Member on payment of charges.
(W.I. No. 4478 of 1974 - SR.17960)

TWO (2) C.Cs to the Government Member on payment of charges.
(W.I.No. 4478 of 1974 - SR.17961)

FOUR (4) C.Cs to Mr.T. Martin, Advocate -do-
(W.I.No. 4478 of 1974 - SR.17743)

ONE C.C. to Mr.S. Chellaswamy, Advocate -do-
(W.I.No. 1364 of 1975 - SR 17864)

ONE C.C. to Mr.S. Chellaswamy, Advocate -do-
(W.I.1365 of 1975 - SR 36)

ONE C.C. to Mr.S. Chellaswamy, Advocate -do-
(W.I.No. 1750 of 1975 - SR 37)

ONE C.C. to Mr.T. Govindarajulu, Advocate -do-
(W.I.No. 226 of 1975 - SR. 17756)

ONE C.C. to Mr.R. Janakiraman, Advocate -do-
(W.I.No. 510 of 1975 - SR. 1668)

FIVE (5) C.Cs to Mr.E.S. Govindan, Advocate on payment
of charges.
(W.I.No.603 of 1975 - SR 288 and
SR 813)

ONE C.C. to Mr.R. Nadasabapathy, Advocate -do-
(W.I.No.683 of 1975 - SR.17831).

THREE (3) C.Cs.to Mr.T.R. Mani, Advocate -do-
(W.I.No.934 of 1975 - SR.155)

contd...

ONE C.C. to Mr.R. Krishnamoorthy, Advocate on payment of charges.
(W.I.No. 953 of 1975 - SR. 17861)

TWO (2) C.Cs to Mr.G.Narayanan, Advocate -do-
(W.I.No. 1062 of 1975 - SR 17930)

ONE C.C. to Mr.S. Balasubramaniam, Advocate -do-
(W.I.No.1081 of 1975 - SR. 362)

ONE C.C. to Mr.R. Janakiraman, Advocate -do- WP.1209/75 SR 18075

ONE C.C. to Mr.I.M. Jumma Khan, Advocate -do-
(W.I.No.1311 of 1975 - SR. 4)

ONE C.C. to Mr.S. Chellaswamy, Advocate -do-
(W.I.No.1361 of 1975 - SR. 38)

ONE C.C. TO Mr.G.K. Selvarajan, Advocate -do-
(W.I.No. 1738 of 1975 - SR. 2063)

ONE C.C. to Mr.S. Ramaswamy, Advocate -do-
(W.I.No. 1908 of 1975 - SR. 725)

~~ONE~~

TWO (2) C.Cs to Mr.G.Narayanan, Advocate -do-
(W.I.No. 1989 of 1975 - SR. 17929)

ONE C.C. to Mr.J. Samuel, Advocate -do-
(W.I.No. 2119 of 1975 - SR. 17833)

ONE C.C. to Mr.B. Lakshminaravana Reddy, Advocate -do-
(W.I.No. 2671 of 1975 - SR. 18265)

-do- (W.P.No.2670/75 S.R. 18264)

ONE C.C. to Mr. -do- -do-
(W.I.No.2672 of 1975 - SR. 18266)

ONE C.C. to Mr. -do- -do-
(W.I.No. 2673 of 1975 - SR. 18267)

ONE C.C. to Mr. -do- -do-
(W.I.No. 2674 of 1975 - SR. 18268)

ONE C.C. to Mr. -do- -do-
(W.I.No. 2675 of 1975 - SR. 18269)

Contd....

- ONE C.C. to Mr.B. Lakshminarayana Reddy, Advocate on payment
of charges.
(W.I.No.2676 of 1975 - SR. 18270)
- ONE C.C. to Mr. -do- -do-
(W.I.No. 2677 of 1975 - SR. 18271)
- ONE C.C. to Mr. -do- -do-
(W.I.No. 2678 of 1975 - SR. 18272)
- ONE C.C. to Mr. -do- -do-
(W.I.No. 2679 of 1975 - SR. 18273)
- ONE C.C. to Mr. -do- -do-
(W.I.No. 2680 of 1975 - SR. 1829 and
- ONE C.C. to Mr.N.M. Mani Varma, Advocate -do-
(W.I.No.2780 of 1975 - SR. 17836)
- ONE C.C. to Mr.R. Krishnamoorthy, Advocate -do-
(W.I.No. 2944 of 1975 - SR. 18036)
- ONE C.C. to Mr.M. Vanchinathan, Advocate -do-
(W.I.No. 3029 of 1975 -SR. 35)
- ONE C.C. to Mr.A.C. MunsuSwami Reddy, Advocate -do-
(W.I.No.3135 of 1975 - SR. 17892)
- ONE C.C. TO Mr.B. Lakshminarayana Reddy, Advocate -do-
(W.I.No.3221 of 1975 - SR. 18276)
- ONE C.C. to Mr.L.K. Sankaran, Advocate -do-
(W.I.No. 3351 of 1975 - SR 17775)
- ONE C.C. to Mr.Sam V. Chelliah, Advocate -do-
(W.I.No. 3513 of 1975 - SR. 17889)
- ONE C.C. to Mr.Sam V. Chelliah, Advocate -do-
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- ONE C.C. to Mr.B. Lakshminarayana Reddy, Advocate -do-
(W.I.No.5072 of 1975 - SR 18275)

contl....

TWO (2) C.Cs to Mr.S.M. Abdul Wahab, Advocate on payment of charges.

(V.I.No. 2075 of 1975 - SR. 8076)

THREE (3) C.Cs to Mr.C. Krishnan, Advocate -do-

(V.I.Nos.768 to 770 of 1975 - SR. 8122)

ONE C.C. to Mr.O.V. Balaswami, Advocate -do-

(V.I.No. 897 of 1975 - SR. 8365)

ONE C.C. to Mr.K. Swamidurai, Advocate -do-

(V.I.No.1076/75 SR.8353)

TWO (2) C.Cs to Mr.N.R. Chandran, Advocate -do-

(V.I.Nos. 1640 and 1641/75 SR.8424)

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